IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA

EASTERN ZONAL BENCH: KOLKATA

Customs Stay -75622/2016
AND

Customs Appeal No. 76522/2016

(Arising out of Order-in-Appeal No.44/DGP/2016-17 dated-15/06/2016 passed by the Commissioner of Central Excise (Appeals-II), Kolkata)

CCE&ST-Durgapur

Applicant (s)/Appellant (s)

Vs.

M/s. S. Krishna & Co.

Respondent (s)

Appearance:

Shri S.K. Naskar, A.C. (A.R.) for the Appellant (s)

Sri S. M. Akhtar, Advocate for the Respondent (s)

CORAM:

Hon'ble Shri P.K.Choudhary, Member (Judicial)
Hon'ble Shri Bijay Kumar, Member (Technical)

Date of Hearing/Decision : 07/06/2018

ORDER NO. : F/76406/2018

Per Shri Bijay Kumar

The present appeal has been filed against the impugned order passed by the Ld. Commissioner (Appeal), Central Excise, Kolkata. In this case, the Department has also filed stay application No. 75622/2016. Both the issues are taken together for the disposal of this appeal.

2. The issue involved in this case is regarding non-fulfilment of condition laid down under para 2 (viii) of the Circular No. 16/2008 dated 13/10/2008 for sale of the imported goods by the consignment agent in

terms of Notification No. 102/2007-Customs dated-14.09.2007 which relates to refund of special additional duty paid at the time of importing goods by the importer. The lower adjudicating authority also has rejected the refund claim on the ground of non-fulfilment of conditions prescribed in the Notification No. 102/2007-Customs dated-14.09.2007 and the infraction of condition No. 8 of the Circular No.16/2008-Customs dated 13/10/2008.

3. After going through the case filed, it is evident that the issue relates to the grant of SAD refund in terms of the aforesaid notification and circular. The amount of refund involved in this case is Rs.33,476/- which is much below the threshold limit of filing appeal before Hon'ble CESTAT in terms of National Litigation Policy in terms of Board's instruction F.No. 390/Misc./163/2010-JC dated-17.08.2011. Accordingly, the present case falls under exclusion clause 3 (c) of the National Litigation Policy introduced vide Board's Instruction dated 17.12.2015, which has been deleted vide Instruction F. No. 390/Misc./116/2017-JC dated-04.04.2018.

4. In view of above, we dismiss the appeal filed by the Department and accordingly, the stay application stands disposed.

(Operative part of the order already Pronounced in the Court)

SD/-5/7/18
(P.K.Choudhary)
MEMBER(JUDICIAL)

Sd/-
(Bijay Kumar)
MEMBER(TECHNICAL)

k.b/-