IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
EAST REGIONAL BENCH : KOLKATA

MA (EH)-76231,76232/18
& Cus.Appeal Nos.77176, 77177/18

(Arising out of Order-in-Original F.No.S60(VA&B)-12/2018A (Misc.) dated 28.02.2018 passed by Commissioner of Customs (Port), Kolkata)

M/s Zeniak Innovation India Ltd.

Applicant (s)/Appellant (s)

Vs.

Commr. of Customs (Port), Kolkata

Respondent (s)

Appearance:

Shri S. Banerjee, Advocate for the Appellant (s)
Shri S.N. Mitra, Asstt. Commr. (AR) for the Revenue (s)

CORAM:

HON'BLE SHRI P. K. CHOUDHARY, JUDICIAL MEMBER
HON'BLE SHRI BIJAY KUMAR, TECHNICAL MEMBER

Date of Hearing : 06.07.2018
Date of Decision : 06.07.2018

ORDER NO.MO/75704-75705/FO/76411-76412/2018

Per Shri Bijay Kumar :

The appellants have filed two Early Hearing Applications in the matter of import of the goods vide four Bills of Entry Nos.3268004 & 3268601 both dt.16.09.2017 and Bills of Entry Nos.3194888 & 3194898 both dt.11.09.2017. It is the grievance of the appellant that the importer has imported same goods i.e. "Spare Parts of Electrical Tricycles", imported vide Bills of Entry No.3286869, 3286894, 3290305 all dated 18.09.2007 and 3292380 dt. 19.08.2017. In these imports, the Commissioner has allowed the release vide letter F.No.S60(VA&B)-12/2018A(Misc.) dated 04.07.2018 on the decision of

Hon'ble Calcutta High Court's Order in the matter of W.P.No.232 (w) of 2018 : M/s Zeniak Innovation India Ltd. & Another Vs. Commissioner of Customs (Port) & Oths.

2. The ld.Counsel for the appellants submits that in cases of import covered by the four Bills of Entry as referred above, the ld.Commissioner has refused the provisional release vide impugned order.

3. The ld.D.R. for the Revenue reiterates the findings of the Commissioner in the impugned order.

4. We have heard both sides and perused the appeal records. We find that issue lies on a narrow compass regarding a provisional release of the goods detained by the Customs. Since similar goods have been imported by the importer, the provisional release is granted by the Commissioner himself, we direct the Commissioner to release the goods in respect of afore-stated Bills of Entry also while doing so, the Commissioner is required to safeguard the interest of Revenue, as per CBEC Circular No.35/2017-Cus dt. 16.08.2017 governing the provisional release under Section 110A of Customs Act, 1962.

5. In the result, both the appeals are allowed. Misc.Applications are disposed off accordingly.

(Dictated and pronounced in the open Court.)

Sd/
(P. K. CHOWDHARY)
MEMBER (JUDICIAL)

Sd/
(BIJAY KUMAR)
MEMBER (TECHNICAL)

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