

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA**

REGIONAL BENCH - COURT NO.2

Customs Appeal No.78052 of 2018

(Arising out of Order-in-Appeal No.KOL/CUS/AA/70/2018 dated 04.01.2018 passed by Commissioner of Customs(Appeals), Kolkata.)

Commissioner of Customs(Port), Kolkata

(Custom House, 15/1, Strand Road,
Kolkata-700001.)

...Appellant

VERSUS

M/s.S.S.Traders,

(C-174, 1st Floor, Prashant Vihar, New Delhi-110085.)

.....Respondent

APPEARANCE

Shri S.S.Chattopadhyay, Authorized Representative for the Appellant (s)
NONE for the Respondent (s)

CORAM: HON'BLE SHRI P.K.CHOUDHARY, MEMBER(JUDICIAL)

FINAL ORDER NO. 76964/2019

DATE OF HEARING : 12 December 2019

DATE OF DECISION : 12 December 2019

P.K.CHOUDHARY :

When the matter was called, none appeared on behalf of the respondents. However, we observe that the present issue involved in this appeal, lies in a narrow compass. Accordingly, the appeal is taken up for final hearing today itself with the consent of learned Authorized Representative for the Revenue.

2. The respondent imported old and used worn clothing and one bill of entry was filed covering the one consignment of the importer. At the time of original assessment, the declared value of the imported goods was enhanced from CIF price of US\$ 1.10 per kg. to US \$ 1.316 per kg.. The original adjudicating authority ordered confiscation of the

imported goods for violation of Import Trade Control restrictions and the goods were confiscated under Section 111(d) of the Customs Act, 1962. He also imposed redemption fine under Section 125 of the Act @ 25-27% and personal penalty under section 112 (a) of the Act, varying from 15-15.2%.

3. The order passed by the original adjudicating authority was challenged before the Commissioner(Appeals) by the importer. The First Appellate Authority, by passing the impugned order, upheld the order of confiscation and enhancement of value. However, he reduced the redemption fine and penalty imposed to 10% and 5% respectively. Revenue has challenged this order by filing the present appeal with the prayer that the order of the learned Commissioner(Appeals) reducing redemption fine and personal penalty, merits review.

4. Shri S.S.Chattopadhyay, learned Authorized Representative appeared on behalf of the Revenue. He submitted that the redemption fine and personal penalty merit to be increased in view of the fact that the respondent is a frequent importer of worn and used garments in violation of ITC Regulations. He also submitted that a high amount of redemption fine and penalty will act as a deterrent for such imports by such unscrupulous persons.

5. After hearing the learned Authorized Representative for the Revenue and on perusal of record, I find that the enhancement of value has been ordered by the First Appellate Authority on the basis of concurrence given by the importer for such enhancement. There is no challenge to the order of confiscation, but Revenue is challenging the quantum of redemption fine and penalty, which stand reduced by the learned Commissioner(Appeals).

6. On perusal of the impugned order, I note that the learned Commissioner(Appeals) has ordered reduction of redemption fine and personal penalty on the basis of ratio laid down by the Tribunal in the case of Omex International Vs. Commissioner of Customs, New Delhi reported in 2015 (328) ELT 579 (Tri.-Del.). The Tribunal has taken the view that redemption fine of 10% and penalty of 5% of the value of the imported goods, would be appropriate in case of import violating Exim

Policy Provisions. I find no reason to interfere with the findings of the learned Commissioner(Appeals) on the basis of such decision.

7. In the result, the impugned order is upheld and the appeal filed by the Revenue is rejected.

(Dictated and pronounced in the open Court.)

SD/
(P.K.CHOUDHARY)
MEMBER (JUDICIAL)

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