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

REGIONAL BENCH – COURT NO.2

Customs Appeal No.559 of 2009

(Arising out of Order-in-Original No.Kol/Cus/Port/44/2009 dated 19.03.2009 passed by Commissioner of Customs (Port), Kolkata)

Commissioner of Customs (Port), Kolkata
15/1, Strand Road, Kolkata-700001

Appellant

VERSUS

M/s Rubee Air Freight Limited
3, Chowringhee Approach, 2nd Floor, Kolkata-700072

Respondent

APPERANCE :
Shri M.P.Toppo, Authorized Representative for the Appellant
Shri Prabir Bera, Advocate for the Respondent

CORAM:
HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE MR.K.ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO……75114/2023

DATE OF HEARING : 24 .02.2023
DATE OF DECISION : 24 .02.2023

Per Ashok Jindal :

The Revenue is in appeal against the impugned order for not imposing penalty on the respondent.

2. Brief facts of the case are that the respondent imported one consignment of "seamless steel tubes" vide Bill of Entry No.450669 dated 12.01.2009. Whereas the said imported goods attract policy restriction in terms of DGFT Notification No.64(RE-2008) dated 24.11.2008. The said goods becomes restricted and requires license for importation of the same. When the said restriction was removed vide another Notification on 16.01.2009. As the appellant filed Bill of Entry for warehousing on 12.01.2009 and later on, the goods were cleared for home consumption after 16.01.2009. Revenue sought confiscation of the said goods and want to impose redemption fine on the respondents. Accordingly, show-cause notice was issued.

3. At the time of adjudication, the adjudicating authority held the goods are liable for confiscation. Hence, redemption fine was imposed but have restrained from imposing penalty on the respondent. Against the said order for not imposing penalty on the respondent, the Revenue is before us.

4. Heard the Ld.Authorised Representative for the Revenue.

5. The facts of the case are not in dispute. The goods were cleared for home consumption after 16.01.2009, then there was no policy restriction for importation of the impugned goods. In that circumstances, the Ld.Adjudicating Authority has restrained for imposing penalty on the respondent.

6. In these circumstances, we do not find any merit in the Revenue's Appeal and accordingly, the same is dismissed.

(Dictated and pronounced in the open court.)

Sd/-

(Ashok Jindal)
Member (Judicial)

Sd/-
(K.Anpazhakan)
Member (Technical)

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