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

REGIONAL BENCH - COURT NO.1

Customs Appeal No.77604 of 2018

(Arising out of Order-in-Appeal No.KOL/CUS(Port)/AA/745/2018 dated 11.04.2018 passed by Commissioner of Customs (Appeals), Kolkata.)

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

...Appellant

VERSUS

M/s. Arena Machineries Limited

.....Respondent

(Room No.4A, 2nd Floor, 8B, Lal Bazar Street, Bikaner Building, Kolkata-700001.)

APPEARANCE

Shri F.Ahmed, Authorized Representative for the Revenue
NONE for the Respondent

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

FINAL ORDER NO. 76151/2023

DATE OF HEARING : 14 July 2023
DATE OF DECISION : 14 July 2023

Per : ASHOK JINDAL :

Revenue is in appeal against the impugned order wherein their appeal has been dismissed by the Ld.Commissioner(Appeals) as time barred.

2. The facts of the case are that the revenue filed an Appeal against Order of the adjudicating authority dated 04.06.2013 on 24.10.2013. The Ld.Commissioner(Appeals) held that in terms of Section 129D(2) of the Customs Act, 1962, the appeal filed by the revenue is beyond the statutory period of filing the appeal therefore the appeal was dismissed.

3. Against the said order, revenue is in appeal before us stating that the Order-in-Original was communicated to the Department on

01.07.2013 and was reviewed on 27.09.2013, therefore, the appeal was filed within limitation.

4. Heard the Ld.Authorized Representative for the Department.

5. Considering the fact that it is not disputed that the Order-in-Original was passed on 04.06.2013 and the same was reviewed only on 27.09.2013 which is after expiry of three months of the period for filing the appeal before the Ld.Commissioner(Appeals). In terms of Section 129D(2) of the Customs Act, 1962, the appeal filed beyond the time limit prescribed under section 129D(2) of the Customs Act, 1962 i.e. on 24.10.2013 is beyond the period of limitation, therefore, the Ld.Commissioner has rightly dismissed the appeal filed by the Revenue.

6. Accordingly, we do not find any infirmity with the impugned order. The same is upheld and the appeal filed by the Revenue is dismissed.

(Operative part of the order was pronounced in the open Court.)

Sd/
(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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