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

REGIONAL BENCH – COURT NO.2

Customs Appeal No.203 of 2011

(Arising out of letter F. No. S-60(MISC)-17/2010 A Gr.III dated 08.04.2011 passed by Dy. Commissioner of Custom Group-3, C. H. Kolkata)

M/s. Sanjeev Agencies
(No. 4, Fancy Lane, Ground Floor,
Kolkata-700001) **Appellant**

VERSUS

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

Respondent

APPEARANCE :

None for the Appellant
Mr. S. Debnath, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE MR. RAJEEV TANDON, MEMBER (TECHNI CAL)

FINAL ORDER NO.76740/2023

Date of Hearing : 21st September 2023
Date of Decision : 21st September 2023

PER R. MURALIDHAR:

Inspite of notice, nobody is present on behalf of the Appellant.

2. It is seen from the records that in the past also on several occasions, the Appellant has not attended the hearings granted. This shows that the Appellant is not interested in pursuing their Appeal. However, in the interest of justice, we have taken up the matter for disposal and perused the documents on record with the help of Learned AR.

3. It is seen that the Appellant has filed the present Appeal against the recordings of the Commissioner of Customs (Port), on 18/11/2010 which was communicated to the Appellant vide File No. S-60(Misc)-17/2010/A GRIII dated 08/04/2011. It is seen that the Appellant had approached the High Court of Calcutta vide Writ Petition No. 1621 of 2010 against this letter. The Hon'ble High Court vide its Order dated 23rd March 2011 has given leave to the Appellant

to file the Appeal before the appropriate forum within two weeks from the date of making available the necessary documents to the Appellant. Accordingly, the Appellants have approached the Tribunal vide their C.A.3 Appeal.

4. On going through the letter dated 08/04/2011 along with the recordings of the Personal Hearing on 18/11/2010, we find that the Commissioner of Customs has given the following remarks:-

> *"It is to be mentioned that it has been informed that since only a single order can be passed against the subject show cause notice, it is decided that the importer may be asked to give his full & final submission at the time of personal hearing."*

5. From the above notings, it gets clarified that the Commissioner has given an opportunity to the Appellant to submit all the documents which are necessary towards finalization of the provisionally assessed Bills of Entry.

6. We do not see any error in these notings given by the Commissioner. Since the Commissioner is a higher ranked official, he can also decide the issue own his own once all the documents are before him without having to send these documents to the lower Authorities.

7. Accordingly, we do not see any merits in the present Appeal filed by the Appellant. We remand the matter back to the Commissioner of Customs (Port). We give liberty to the Appellant to submit all the relevant documents to get provisionally assessed Bills of Entry finalized before him.

8. The Appeal is disposed of thus.

(Dictated and pronounced in the open court.)

Sd/-
(R. Muralidhar)
Member (Judicial)
Sd/-
(Rajeev Tandon)
Member (Technical)

Pooja