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

REGIONAL BENCH – COURT NO.2

Customs Appeal No. 75174 of 2022

(Arising out of Order-in-Appeal No. 115/PAT/CUS/APPEAL/2021-22 Dated 10/01/2022 passed by Commissioner (Appeals) Customs, CGST & Central Excise, Patna.)

Commr. of Customs (Preventive), Patna
(5th Floor, C. R. Building, Birchand Patel Path, Patna-800001)

Appellant

VERSUS

Shri Sunil Kumar
(S/o Shri Shyam Raj, Prop. Bharat Trading Co.
Village-Krishnai Bazar, Rakesh Cabin, P. S.-Krishnai, Dist.-Goalpara, Assam-783120)

Respondent

APPEARANCE :

Mr. Tariq Sulaiman, Authorized Representative for the Appellant
Mr. N. K. Chowdhury, Advocate for the Respondent

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

FINAL ORDER NO.75072/2024

Date of Hearing : 24 January 2024
Date of Decision: 24 January 2024

PER R. MURALIDHAR:

The Respondents goods namely dried Arecanut valued at Rs. 77,52,898/- were seized. The Respondents have sought provisional release of the same. The Adjudicating Authority fixed the Bank Guarantee/Cash Security @ 135% of the value of seized goods. Being aggrieved, the Respondents have filed an appeal before the Commissioner (Appeals) who vide his OIA No. 115/2021-22 dated 10/01/2022 has held that the goods in question can be released if the Bank Gurantee or the Cash Security is made to the extent of 25% of Rs. 77,52,898/- andcan be produced by the Respondent. The Respondents have already executed Bank Gurantee on 19/02/2022 for Rs. 19,38,225/- being 25% of the value of the seized goods. In the meanwhile, the Revenue being aggrieved by the OIA, has filed this Appeal before the Tribunal which is pending here for the last two years.

Customs Appeal No. 75174 of 2022

2. On going through the OIA passed by the Commissioner (Appeals), it is seen that he has gone through factual matrix and cited relevant case law and statutory provisions and has passed a very considered decision by lowering the Bank Guarantee/Cash Security to 25% from earlier 135% decided by the Adjudicating Authority.

3. We do not find any reason to interfere with this considered and detailed order. Accordingly, we hold that the Appellant should be allowed to get the provisional release of the goods on execution of Bank Guarantee/Cash Security to the extent of Rs. 19,38,225/-.

4. The Learned Advocate submits that while the issue was pending before the Tribunal, the Bank Guarantee had expired on 18/02/2023 and submits that the Appellant would take immediate steps to renew the same. The Appellant is directed to either get this Bank Guarantee extended or execute a fresh Guarantee and produce the same before the Adjudicating Authority. The Adjudicating Authority upon receiving the bank guarantee/cash security for Rs. 19,38,225/- should release the goods immediately within seven days from the date of receipt of such guarantee. The Appellant is given liberty to approach the Tribunal, if any these directions are not followed by the Adjudicating Authority.

5. The Revenue's Appeal is dismissed.

(Dictated and pronounced in the open court.)

Sd/-
(R. Muralidhar)
Member (Judicial)

Sd/-
(Rajeev Tandon)
Member (Technical)

Pooja