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

REGIONAL BENCH – COURT NO.1

Customs Appeal No.75450 of 2019
(On behalf of Appellant)

(Arising out of Order-in-Appeal No.14/Pat/Cus/Appeal/2018 dated 03.10.2018 passed by Commissioner (Appeals) of CGST & Excise, Patna)

Shri Haris Chandra Singh
(Vill.-Mathanbari, PO-Piprakothi Bathna, Dist.-East Champaran, Bihar)

Appellant

VERSUS

Commissioner of CGST & Excise, Patna
(C.R.Building (Annexe, 2nd Floor, Bir Chand Patel Path, Patna)

Respondent

APPERANCE :

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

CORAM:

HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)

FINAL ORDER NO.75144/2024

DATE OF HEARING : 01.02.2024
DATE OF DECISION : 01.02.2024

Per Ashok Jindal :

The appellant is in appeal against the impugned order wherein it was held that the appellant has attempted to export the goods illegally. Consequently, redemption fine and penalty are imposed.

2. The facts of the case are that on 19.12.2015 around 1.00 PM, the SSB personnel of BOP, Sonbarsa, District – Sitamarhi, in the course of routine patrolling duty, saw some persons, who were moving towards Nepal from India near Indo-Nepal Border. It is alleged that some goods by Bicycles were admitted to be taken to Nepal. The persons who were carrying Bicycles left the place along with cloth of various types and ran away to Nepal. Thereafter, the officers of SSB detained the goods and

subsequently, handed over the same to the Land Customs Station, Sonbarsa, on the same day. On the reasonable belief that the said goods were tried to be exported illegally from India to Nepal through unauthorized route without any valid documents using Bicycles only as mode of transport. Therefore, the proceedings were initiated under the Customs Act along with Foreign Trade Development & Regulation Act, 1992. Later on, the goods were provisionally released to the appellants and the matter was finally adjudicated.

3. On adjudication, it was held that the goods are liable to confiscation and a redemption fine of Rs.26,800/- was demanded and a penalty of Rs.15,000/- was imposed and the bicycle, which was recovered during investigation, was also absolutely confiscated having value of Rs.9,000/-. Against the said order, the appellant is before me.

4. The ld.Counsel for the appellant drew my attention the order of the ld.Commissioner (Appeals) wherein it was mentioned that the officers of the LCS, Sonbarsa, seized the said goods along with bicycles as unclaimed under Section 110 of the Customs Act, 1962. Therefore, it is merely a presumption without any corroborative evidence that the goods were attempted to be exported outside India without documents or proper channel. In that circumstances, the confiscation of impugned goods and penalty imposed on the appellant is not sustainable.

5. On the other hand, the ld.A.R. for the Revenue, supported the impugned order.

6. Heard both the parties and considered the submissions.

7. I find that in this case, it is only a presumption by the Revenue that the goods were attempted to be exported outside India without

proper documentation and without proper channel and no corroborative evidence has been produced on record. Further, the statement of the appellant was recorded during the course of investigation wherein the appellant claimed the ownership of the goods and the ownership of the bicycles recovered during investigation. As no corroborative evidence has brought on record by the Revenue to allege that there is an attempt for illegal export of goods.

8. In that circumstances, I hold that the confiscation of the impugned goods is not sustainable. Accordingly, no redemption fine can be imposed and no penalty can be imposed.

9. In view of the above, I set aside the impugned order in toto and allow the appeal with consequential relief, if any.

(Dictated and pronounced in the open court)

(Ashok Jindal)
Member (Judicial)

mm