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

REGIONAL BENCH - COURT NO.2

Customs Appeal No.78224 of 2018

(Arising out of Order-in-Original No.KOL/CUS/COMMISSIONER/PORT/38/2018 dated 27.04.2018 passed by Commissioner of Customs (Port), Kolkata.)

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

...Appellant

VERSUS

M/s. A.K.Sales

.....Respondent

(Hari Nagar, Near Miglani Factory, Panipat-132103, Haryana.)

WITH

Customs Appeal No.78616 of 2018

(Arising out of Order-in-Original No.KOL/CUS/COMMISSIONER/PORT/38/2018 dated 27.04.2018 passed by Commissioner of Customs (Port), Kolkata.)

M/s. A.K.Sales
(Mr. Pradeep Jain, Advocate, 370-371/2, 1st Floor, Sahi Hospital Road, Jangpura (Bhogal), New Delhi-110014.)

...Appellant

VERSUS

Commissioner of Customs (Port), Kolkata

.....Respondent

(15/1, Strand Road, Custom House, Kolkata-700001.)

APPEARANCE

Shri Faiz Ahmed, Authorized Representative for the Appellant/Revenue

NONE for the Respondent/Party

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

FINAL ORDER NO. 75297-75298/2024

DATE OF HEARING : 19 February 2024
DATE OF DECISION : 19 February 2024

Per : R. MURALIDHAR :

The assessee Appellant has imported Polyester Bed Cover. There arose a dispute about the classification of the product. The Show Cause Notice was issued seeking to re-classify the goods. After that Personal Hearing was fixed for 19.04.2018. The Appellant assessee pointed out that the personal hearing intimation letter was issued by them only on 20.04.2018 and sought another date for appearing for the Personal Hearing. However, the Adjudicating authority has not granted any further hearing date and has decided the issue *ex parte*. The Appellant assessee in the grounds of appeal takes the stand that the principles of natural justice were not followed by the Adjudicating authority as no Personal Hearing opportunity was granted to them.

2. The Revenue has filed the present Appeal on the ground that the Adjudicating authority has not imposed the penalty under section 114A.

3. After going through the Appeal filed by the Appellant assessee, we find that though they have sought another date for appearing for the Personal Hearing, their request was not granted and the impugned order was passed *ex parte*. We see force in their submission that the Adjudicating authority has not followed the principles of natural justice.

4. Therefore, in the interest of justice, we feel that the Appellant assessee should be given an opportunity once again by the Adjudicating authority. Accordingly, we remand the matter to the Adjudicating authority who will follow the principles of natural justice by granting personal hearing and allow the Appellant to make their submission before passing his order. Since the matter pertains to the year 2018, the Adjudicating authority is directed to complete the proceedings within three months from the date of receipt of this communication.

5. As we have already set aside the impugned order, the Appeal filed by the Revenue becomes infructuous. Accordingly, we dismiss the same.

6. Both the Appeals are disposed of thus.

(Dictated and pronounced in the open Court.)

Sd/
(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/

(RAJEEV TANDON)
MEMBER (TECHNICAL)

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