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

REGIONAL BENCH – COURT NO.1

<u>Customs Appeal No.75853 of 2019</u>
(On behalf of Appellant)

(Arising out of Order-in-Appeal No.Kol/Cus(Port)/10/2019 dated 21.01.2019 passed by Commissioner (Appeals) of Customs, Kolkata)

M/s Jonree Equipments
P-49,Benaras Road, Howrah-711105

Appellant

VERSUS

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

Respondent

<u>APPERANCE :</u>

Shri B.N.Pal, Advocate for the Appellant
Shri A.K.Choudhary, Authorized Representative for the Respondent

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

FINAL ORDER NO.75338/2024

<u>DATE OF HEARING : 23.02.2024</u>
<u>DATE OF DECISION : 23.02.2024</u>

<u>Per Ashok Jindal :</u>

The appellant is in appeal against the impugned order wherein redemption fine and penalty were enhanced.

2. The facts of the case are that the appellant imported a consignment of commercial refrigerators and parts thereof. At the time of import, the appellant was not known that whether they are required to produce the pollution control certificate or not ? Thereafter, they came to know that in respect of these import, pollution control certificate is required. Therefore, at the time of clearance of these goods, the adjudicating authority took a lenient view against the appellant and after confiscating the impugned goods on payment of

duty, held that the goods are liable for confiscation and imposed redemption fine of Rs.4,000/- and penalty of Rs.4,000/- and the goods were cleared to the appellants for home consumption.

2.1 Later on, an appeal filed by the Revenue before the ld.Commissioner (Appeals) on the ground that the redemption fine and penalty imposed on the appellant are on the lower-side. Therefore, the ld.Commissioner (Appeals) considering the facts and circumstances of the case, enhanced the redemption fine to Rs.80,000/- and penalty to Rs.40,000/-.

2.2 Aggrieved from the said order, the appellant is before us.

3. The ld.Counsel for the appellant submits that in this case at the time of adjudication, the redemption fine and penalty were imposed on the appellant of Rs.4,000/- each and the goods were allowed for clearance for home consumption. He submits that as the goods are not available at the time of appellate stage, the redemption fine and penalty cannot be enhanced. Therefore, the impugned order is to be set aside.

4. On the other hand, the ld.A.R. for the Revenue, supported the impugned order and submits that the goods were involved of the high value, therefore, the redemption fine and penalty were not justified by the adjudicating authority and the ld.Commissoner (Appeals) has rightly done so.

5. Heard both sides and considered the submissions.

6. In this case, the facts are not in dispute and the impugned goods cleared on payment of redemption fine and penalty of Rs.4,000/- respectively. Later on, the Revenue has enhanced the redemption fine

and penalty on the appellant by way of impugned order, but the goods were not available with the Revenue.

7. In that circumstances, I hold that the redemption fine and penalty, cannot be enhanced after giving clearance of the goods for home consumption. In that circumstances, I set aside the impugned order and affirm the order of the adjudicating authority.

8. In these terms, the appeal is disposed off.

(Dictated and pronounced in the open court.)

(Ashok Jindal)
Member (Judicial)

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