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

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 78678 of 2018

(Arising out of Order-in-Appeal No.KOL/CUS(Port)/AA/1173/2018 dated 02.07.2018 passed by Commissioner of Customs (Appeals), Kolkata.

Commissioner of Customs (Port), **: Appellant**
(Customs House, 15/1, Strand Road, Kolkata-700 001.)

VERSUS

M/s. Chemsilk Commerce Pvt. Ltd. **: Respondent**
(CK 23/25, Rani Kuwan Chowk, Varanasi, U.P., PIN: 221001.

APPEARANCE:

Shri Tariq Sulaiman, Authorized Representative for the Appellant

None for the Respondent

CORAM:

HON'BLE SHRIASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 76042/ 2024

DATE OF HEARING :05.06.2024

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Order : [Per Shri Ashok Jindal]

The revenue is in appeal against the impugned order wherein the Ld. Commissioner (Appeals) has held that as no order has been passed under section 17(5) of the Customs Act therefore, order of adjudication under section 17(4) of the Act is not sustainable and enhancement of value and classification of goods is not justified.

2. Heard the Ld. Authorized Representative and perused the record.

3. We find that the Respondent had filed bill of entry for clearance of Electric Tricycle Spare Parts as declared by the Appellants and classified the goods under CTH 8703.80.40.

4. The Adjudicating Authority sought to change the classification and to enhance the value of assessment in the bill of entry by doing so under Section 17(4) of the Act, but no order has been passed undersection 17(5) of the Act which is mandatory for the Adjudicating Authority to pass a speaking order for change of classification and enhancement of value. The said order was challenged by the Respondent before the Ld. Commissioner (Appeal) who examined the record and held that as no order under section 17(5) has been passed by the Adjudicating Authority, in that circumstance, the enhancement of value and change of classification is not sustainable.

5. We do agree with the observation made by the Ld. Commissioner (Appeal) in the impugned order wherein it has been held that the Adjudicating Authority is mandatorily required to pass the speaking order undersection 17(5) of the Act which Adjudicating Authority fails to do so.

6. In that circumstances, we do not find any merit in the appeal. Accordingly, the same is dismissed by upholding the impugned order.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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