

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

REGIONAL BENCH – COURT NO.2

Customs Appeal No. 77728 of 2018

(Arising out of Order-in-Appeal No. KOL/CUS(Port)/AA/752/2018 dated 13.04.2018 passed by Commissioner of Customs (Appeals), Kolkata.)

M/s. Cleanopolis Energy Systems Pvt. Ltd.

(2nd Floor, Harmony, Plot No. 10, Rukmini Nagar Main Road, Dispur,
Guwahati-781006, Assam)

Appellant

VERSUS

Commr. of Customs (Port), Kolkata

(15/1, Strand Road, Kolkata-700001)

Respondent

APPEARANCE :

None for the Appellant

Mr. S. Debnath, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)

HON'BLE MR. RAJEEV TANDON, MEMBER (TECHNICAL)

FINAL ORDER NO. 76651/2024

Date of Hearing : 08 August 2024

Date of Decision: 08 August 2024

PER R. MURALIDHAR:

The Appellant has imported a consignment of 2 sets of 370 KW Biogas Generator Sets. They filed their Bill of Entry No. 3679771 dated 30.10.2013 claiming the benefit of Notification No. 81/2005-Cus dated 08/09/2005 as amended read with Notification No. 33/2005-CE dated 08.09.2005. As per the condition specified in the Notification, the importer has to produce before the Deputy Commissioner of Customs a Certificate from an officer not below the rank of a Deputy Secretary to the Government of India in the Ministry of Non-Conventional Energy Resources to the effect that goods are required in initial setting up of project for generation of power using non-conventional materials. The Appellant had produced Certificate No. 10/07/2013-U&I-Partfile dated 31/12/2013 issued by Shri B. R. Mishra-Scientist-E, Ministry of New & Renewable Energy, Government of India, New Delhi. The lower authorities have denied the benefit of exemption Notification on the

ground that the Certificate has been issued by Scientist-E and not by any person of the rank of Deputy Secretary to the Government of India, working in the Ministry of Non-Conventional Energy.

2. We see from the Appeal Papers that the Appellant has enclosed letter No.30/42/2018-19/NSM (CCDC Cell) dated 13/04/2018 which certifies as under:-

"This to clarify that Ministry of New and Renewable Energy Sources with approval of competent authority has assigned task of issuing Customs Concessional certificates to Shri B. R. Mishra, Scientist E for waste to energy projects and to state that Scientist E is above rank of rank of Deputy Secretary to Government of India."

3. From the OIA, we find that OIO was passed on 13/04/2018 and this letter was also issued on 13/04/2018 and probably the above letter was not placed before the Commissioner (Appeals).

4. Considering the factual evidence, we set aside the impugned Order and allow the Appeal. The Appellant would be eligible for consequential relief, if any, as per law.

(Dictated and pronounced in the open court.)

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

Sd/-
(Rajeev Tandon)
Member (Technical)