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

REGIONAL BENCH – COURT NO. 2

**Customs Appeal No. 78155 of 2018**

(Arising out of Order-In-Appeal No. Kol/Cus(port)/AA/955/2018 dated 18.05.2018 passed by the Commissioner of Customs (Appeals) 3rd Floor, Customs House, 15/1, Strand Road, Kolkata-700001)

**Shri Andrew Dias,** **: Appellant**
H. No. 82, JNC Vieranagar,
Chicolna, Bogmalo-Goa-403802

**VERSUS**

**Commissioner of Customs (port), Kolkata** **: Respondent**
Customs House, 15/1, Strand Road,
Kolkata-700 001

**<u>APPEARANCE</u>:**

Shri S. P. Majumdar, Advocate for the Appellant

Shri Faiz Ahmed, Authorized Representative for the Respondent

**<u>CORAM</u>:**

**HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)**
**HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)**

**FINAL ORDER NO.<u>77586/ 2024</u>**

DATE OF HEARING / DECISION: 18.11.2024

**ORDER: [PER SHRI R. MURALIDHAR]**

The appellant is agitated by the confirmation of differential duty of Rs.32,38,144/-. As per them, the differential duty should be of Rs.26,97,184/-.

1.1. After presentation of submissions from both the sides, we find that the difference is essentially on account of two points viz.

a. On account of enhancement of the value of the imported car.

b. On account of charging the Customs duty at the rate of 182.45% as against the proposal to charge Customs duty at the rate of 165% in the Show Cause Notice.

2. After going through the submissions, we find that the addendum to the Show Cause Notice, proposing to impose penalty on the appellant, was issued after the expiry of extended period of five years. Therefore, we set aside the penalty of Rs.2,00,000/- imposed on the appellant.

2.1. We also find that the ld. adjudicating authority has not quantified the redemption fine to be imposed on the vehicle. In respect of, appropriation of Bank Guarantee of Rs.8,77,066/- towards the redemption fine without being quantified, and towards penalty of Rs.2,00,000/-, [which stands set aside as per para 2 above], we hold that the same is not legally sustainable. We hold that the Bank Guarantee of Rs.8,77,066/- should be restored to the appellant.

3. In order to verify the quantification of Customs duty as to whether the same stands at Rs.32,38,144/-, as claimed by the Revenue, or at Rs.26,97,184/-, as claimed by the appellant, we remand the matter to the adjudicating authority to consider the above points and finalise the same. If any differential duty is required to be paid, then the appellant shall pay the same along with interest. Considering the particular facts of this case, we hold that no penalty shall be imposed on such differential duty, if any arising therefrom.

4. Since the issue pertains to the period 2006-07, the adjudicating authority is directed to complete the proceedings within a period of three months from the date of receipt of this communication.

(Dictated and pronounced in the open court)

**(R. MURALIDHAR)**
MEMBER (JUDICIAL)

**(K. ANPAZHAKAN)**
MEMBER (TECHNICAL)

RKP