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

REGIONAL BENCH – COURT NO. 2

Customs Appeal No. 76149 of 2019

(Arising out of Order-in-Appeal No. 78/Cus/CCP-GST/2018 dated 28.09.2018 passed by the Commissioner (Appeals) CGST, Central Excise & Customs Central Revenue Building, Rajaswa Vihar, Bhubaneswar-7)

M/s. Steel Authority Of India Limited, **: Appellant**
Sail, House, 6th Floor
50 Jawaharlal Neheru Road, Kolkata-700 071.

VERSUS

Commissioner (Appeals) CGST, Central Excise & Customs **: Respondent**
Central Revenue Building,
Rajaswa Vihar, Bhubaneswar-7

<u>APPEARANCE</u>:

Shri R. N. Bandyopadhyay, Advocate for the Appellant

Shri Ashwini Kr. Choudhary, 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>75394/2025</u>

DATE OF HEARING: 05.02.2025
DATE OF PRONOUNCMENT: 19.02.2025

Order: [PER SHRI R. MURALIDHAR]

The appellants have imported goods on provisional assessment basis. In the terms of Regulation 3 (3) of Customs, Provisional Duty Assessment Regulations 2011, the appellant/importer is required to file all the necessary documents like invoice, bills of leading, certificate of origin and other documents within one month. However, the appellant has not submitted these documents within one month's time.

Proceedings were initiated in respect of 88 such cases wherein the documents were not filed on a timely basis. The adjudicating authority, after considering the factual details, imposed a penalty of Rs.45,000/- under Regulation 5 of the Customs, Provisional Duty Assessment Regulations 2011 on the appellant.

2. The Revenue filed an appeal before the Commissioner of Appeals on the ground that the appellant has delayed filing of the relevant documents and not filed within one month period. As a matter of fact, in many cases, the documents were submitted after more than one year. Therefore, they argued that the penalty, by the adjudicating authority is much lower. They submitted that in terms of Regulation 5, penalty up to Rs.50,000/- is imposable in such cases of contravention. Commissioner of Appeals, after going through the appeal, has imposed a penalty of Rs.50,000/- for each and every one of the 88 bills of entry, which has resulted in the total penalty being confirmed at Rs.44,00,000/-. Being aggrieved, the appellant is before the Tribunal.

3. The Ld. Advocate appearing on behalf of the appellant submits that the appellant is a Public Sector Undertaking and has to gather documents from various sources in order to file all the documentary evidence before the Customs Authority. This has resulted in a delayed filing of the documents before them. Therefore, he submits that considering these facts, the adjudicating authority has correctly imposed a penalty of Rs.45,000/-. He submits that the Commissioner of Appeals has gone to another extreme by imposing penalty of Rs.50,000/- on each

and every bill of entry, which has resulted in a huge penalty of Rs.44,00,000/-. He prays a sympathetic view may be taken and the enhanced penalty may be set aside.

4. The Learned Authorized Representative appearing on behalf of the Revenue says that the appellant has been time and again filing their documents in a very delayed manner. The adjudicating authority had taken a very sympathetic view and had just imposed a token penalty of Rs.45,000/-, whereas after going through the factual details, the Commissioner of Appeals has correctly enhanced the penalty of Rs.50,000/- for each bill of entry. Accordingly, he justifies the penalty imposed on the appellant.

5. We have gone through the factual details and the Order-in-Original (O-IO) and other appeal papers submitted by both the sides. We find that as per Rule 5, the maximum penalty imposable in case of each bill of entry is Rs.50,000/-The Commissioner of Appeals has taken a very stringent view and imposed Rs.50,000/- per Bill of Entry, which has resulted in a total penalty of Rs.44,00,000/-.

6. On the other hand, we also see the point of view of the Revenue to the effect that the appellant has been delaying the filing of documents in almost all the cases. We have taken some sample documents presented by the appellant. We find that for the Bill of Entry lading dated 29.04.2014, the appellant has filed the documents on 09.05.2016. In another case, in case of Bill of Lading dated 09.12.2014, documents have been filed on 16.05.2016. In another case, they have filed the documents on 23.05.2016 for the Bill of lading dated

26.02.2015. Thus, we find that in almost all the cases, the appellant has filed the documents after 1 or 2 years' time, whereas, they were required to file the same within 30 days' time. Thus they have not paid any heed to the statutory provisions and have contravened the same . Just because the appellants happen to be a Public Sector Undertaking, no special concession can be shown. They are carrying commercial activity and are profit generating unit.

7. However, we feel that the imposing of penalty at the rate of Rs.50,000/- per Bill of Entry is quit harsh. In a recent decisions in respect of many of such importer violating this condition, this Bench had held that penalty of about Rs.2500/- per Bill of Entry would meet the ends of justice. Following this issue, we hold that the appellant is required to pay penalty of Rs.2500/- for every Bill of Entry. Accordingly, we reduce the penalty from Rs.44,00,000 to Rs.2,25,000.

8. Thus, the appeal stands allowed partly.

(Order Pronounced in Open court on 19.02.2025)

(R. MURALIDHAR)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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