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

REGIONAL BENCH – COURT NO.2

Customs Miscellaneous Application No. 76563 of 2019 (COD)
And
Customs Miscellaneous Application No. 76564 of 2019 (Stay)
In
Customs Appeal No. 76873 of 2019

(Arising out of Order-In-Appeal No. KOL/CUS(PORT)/AA/1125-1130/2018 dated 25.06.2018 passed by Commissioner of Customs (Appeals), Kolkata)

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

Appellant

VERSUS

M/s Gee Kay Computers
(B-7, Prabhat Kiran Building, Rajendra Place, New Delhi-110008)

Respondent

APPEARANCE :
Mr. A. K. Chaudhary, Authorized Representative for the Appellant
Mr. Shovendu Banerjee, Advocate for the Respondent

CORAM:
HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE MR. K. ANPAZHAKAN, MEMBER (TECHNICAL)

MISCELLANEOUS ORDER NO.75164-75165/2025

FINAL ORDER NO.75555/2025

Date of Hearing : 21 February 2025
Date of Decision : 21 February 2025

[ORDER] PER R. MURALIDHAR

Being satisfied with the explanation given by the Revenue, we Condone the delay and allow the COD application.

2. As far as the Stay Petition filed by the Department is concerned, it is observed that the same is filed in a routine and mechanical manner without any application of mind. The same is of a casual nature. The said Stay Petition, filed by the Department is dismissed.

3. At this juncture, it has come to our knowledge that the issue is squarely covered by several decisions of this Bench. Therefore, we have taken up the appeal itself for disposal.

4. We find that this Bench vide **Final Order No. 75403/2023 dated 12/05/2023 in the case of Commr. of Customs (Port), Kolkata Vs. M/s. Atul Automation Pvt. Ltd.** has held as under:-

> *4. We find that in this case the respondent has imported the old secondhand digital multifunctional printing and copying machine without obtaining the license, which are in violation of ITC Regulation, Exim Policy and Foreign Trade Policy Para 2 (17) during the impugned period i.e.02.05.2013 to 14.05.2013 which is after 28th February, 2013, the ld. Commissioner (Appeals) confirmed the enhancement value as the respondent has accepted the same before the adjudicating authority.*
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> *5. The next issue arises about the confiscation of the impugned goods and imposition of redemption fine and penalty on the respondent under Customs Act, 1962. As the goods were imported in violation of the Foreign Trade Policy Para 2 (17), therefore, the goods are liable for confiscation as held by the ld.Commissioner (Appeals). Further, he held that as it is the bonafide conduct of the respondent, he relied upon certain judicial pronouncement reduced redemption fine and penalty 10% and 5% of the assessed value respectively.*
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> *6. We find that a similar case in the case of Commissioner of Customs, Cochin Vs. Office Devices reported in 2009 (240) ELT 336 (Ker.) and Commissioner of Customs (Export), Chennai Vs. Sri Venkateswara Enterprises reported in 2014 (310) ELT 433 (Mad.), the Hon'ble High Courts, have reduced the redemption fine and penalty to the tune of 10% & 5% respectively of the assessed value.*
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> *7. In that circumstances, we hold that the ld.Commissioner (Appeals) has correctly reduced the redemption fine and penalty. We also hold so, therefore, we do not find any infirmity in the impugned order and accordingly, the same is upheld.*

8. The appeal filed by the Revenue is dismissed.

5. The factual details in the present case are identical, wherein in the impugned OIA, the Commissioner (Appeals) has imposed Redemption Fine @ 10% and penalty of 5% of the value of the confiscated goods. We find that the cited case law is squarely applicable.

6. Following the ratio laid down in the cited case law, we dismiss the appeal filed by the Revenue.

(Dictated and pronounced in the open court.)

Sd/-

(R. Muralidhar)
Member (Judicial)

Sd/-

(K. Anpazhakan)
Member (Technical)

Pooja