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

REGIONAL BENCH – COURT NO. 1

Customs (COD) Application No. 76552 of 2019

In

Customs Appeal No. 76868 of 2019

(Arising out of Order-in-Appeal No. Kol/Cus(Port)/AA/1125-1130 dated 25.06.2018 passed by the Commissioner of Customs (Appeals) 3rd Floor Custom House, 15/1 Strand Road, Kolkata-700001)

Commissioner of Customs, Kolkata **: Appellant**
3rd Floor Custom House, 15/1 Strand Road,
Kolkata-700001

VERSUS

M/s. Gee Kay Computers, New Delhi **: Respondent**
B-7, Prabhat Kiran Building, Rajendra Place,
New Delhi-11008

AND

Customs (COD) Application No. 76556 of 2019

In

Customs Appeal No. 76870 of 2019

(Arising out of Order-in-Appeal No. Kol/Cus(Port)/AA/1125-1130 dated 25.06.2018 passed by the Commissioner of Customs (Appeals) 3rd Floor Custom House, 15/1 Strand Road, Kolkata-700001)

Commissioner of Customs, Kolkata **: Appellant**
3rd Floor Custom House, 15/1 Strand Road,
Kolkata-700001

VERSUS

M/s. Gee Kay Computers, New Delhi **: Respondent**
B-7, Prabhat Kiran Building,
Rajendra Place,
New Delhi-11008

APPEARANCE:

Shri Ashwini Kr. Choudhary, Authorized Representative for the Appellant

Shri Sovendu Banerjee, Advocate for the Respondent

CORAM:

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

FINAL ORDER NO.75539-75540/2025

DATE OF HEARING / DECISION: 28.02.2025

Order: [PER SHRI ASHOK JINDAL]

The applicant has filed the application for condonation of delay of 309 days in filing the present appeal.

2. We have considered the submissions made by the applicant in the application for condonation of delay and perused the records. Accepting the reasons given by the applicant in the application for condonation of delay, we condone the delay in filing the appeal. In these terms, the application for condonation of delay is allowed.

3. The Revenue is in appeal against the impugned order wherein redemption fine and penalty were reduced to 10% and 5% of the assessed value respectively.

4. The facts of the case are that the respondent imported the old second-hand digital multifunctional printing and copying machine, which was assessed after value enhancement, confiscation, redemption fine and penalty. The said order was challenged before the ld. Commissioner (Appeals) and the ld. Commissioner (Appeals) reduced the redemption fine to 10% and penalty to 5% of the assessed value. Against the said order, the Revenue is before us.

5. Heard the Ld. A.R. for the Revenue and perused the records.

6. We find that in this case the respondent has imported the old second-hand 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.

7. 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.

8. 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.

9. 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.

10. The appeal filed by the Revenue is dismissed.

(Operative part of Order was pronounced in Open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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