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

REGIONAL BENCH – COURT NO.2

Customs Appeal No. 75471 of 2020

(Arising out of Order-in-Original No.02/CUS/CCP/WB/2020 dated 13.08.2020 passed by Commissioner of Customs (Preventive), Kolkata)

M/s. C. K. Steel Pvt. Ltd.
(65/1, G.T. Road, Liluah, Howrah-711201)

Appellant

versus

Commr. of Customs (Preventive), Kolkata
(Customs House, 3rd Floor, 15/1, Strand Road, Kolkata-700001)

Respondent

APPEARANCE :

Shri Aditya Dutta, Advocate, for the Appellant
Shri S. Chakraborty & A. K. Choudhary, Authorized Representative for the Respondent

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

FINAL ORDER NO.76201/2025

Date of Hearing : 5TH May 2025
Date of Decision : 5th May 2025

PER R. MURALIDHAR

The appellant provides their godown for storage of various materials pertaining to their clients. The appellants have allowed to store 70 coils of GP Sheet to M/s. Steel & Allied Products Exporter (in short M/s. SAPE). Based on the documents submitted by the party, the appellants have stored their materials. The client M/s. SAPE used to regularly release the stored goods on payment of charges to the appellant. The consignment of SAPE was intercepted and found to be carrying Indian made GP Sheets. After due process, proceedings were initiated against SAPE and penalty was imposed on the appellant. All the noticees challenged the order before the Tribunal. The Hon'ble Tribunal vide Final Order No. 76150-76175/2017 dated 11/07/2017, remanded the matter to the Adjudicating Authority for Denovo Adjudication. In the order, the Adjudicating Authority has not brought in any specific instance of contravention by the appellant but still has imposed penalty of Rs.15,00,000/-. Being aggrieved, the appellant is before the Tribunal.

2. The Learned Counsel appearing on behalf of the appellant submits that the appellant is only taking up the storing of goods of various clients. At the time of taking the goods for storing, the appellants have verified the custom duty paid nature of the goods and have taken the stock in the warehouse. As per the requisition made by SAPE, they were releasing the GP sheets. The appellant is not responsible as to what happens after the goods were released from their warehouse. Therefore, if any contravention has been indulged in by SAPE, the appellant cannot be imposed with penalty without providing proper evidence to the effect that the contravention of SAPE was in connivance with the role played by the appellant. In the entire order, no specifics have been brought in towards the role played by the appellant in the alleged contravention. In view of the above, the Learned Counsel prays that the appeal may be allowed.

3. The Learned AR appearing on behalf of the Revenue submits that the appellant is required to be vigilant to ensure that the goods released are proper customs duty paid goods. It has been found by the DRI that SAPE was replacing the imported goods, procured under exemption notification and the imported goods are sold in the Indian market. This shows that the appellant was aware of the fraud indulged in by SAPE. Therefore, he justifies the penalty imposed on the appellant.

4. Heard both sides and perused the appeal papers and the submissions made by both sides.

5. We find that admittedly, there is no allegation that the appellant was careless in taking into stock the imported goods brought in by SAPE. At the time of bringing in the goods, SAPE have filed the required documents like Bill of Entry, Invoice and Packing List in respect of the consignment being stocked at the warehouse of the appellant. The goods were released from the storage as when the charges are paid based on the requisition slip given by the SAPE. Once the goods are released from their custody, the appellant has no control as to what is being done by SAPE subsequently. The Department has not brought in any evidence to the effect that the appellant was involved in replacing

of imported materials with Indian goods, within the warehouse premises of the appellant.

6. Therefore, we find that no case has been made out by the Revenue against the appellant. Accordingly, we set aside the impugned order and allow the appeal filed by the appellant.

7. The appellant would be eligible for consequential relief, if any, as per law.

(Operative part of the order was pronounced in the open court.)

Sd/-

(R. Muralidhar)
Member (Judicial)

Sd/-

(K. Anpazhakan)
Member (Technical)

Pooja