IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI
COURT NO. II

Appeal No. C/540/08

(Arising out of Order-in-Original No. 11/2008/CAC/CC/KS dated 30.11.2007 passed by the Commissioner of Customs (Export), Mumbai).

Commissioner of Customs (Export), Mumbai	Appellant

Vs.

M/s Sheelpa Exports	Respondent

Appearance:

Ms. P. Vinitha Sekhar, Jt. Commissioner (AR)	for Appellant
Shri J.C. Patel, Advocate	for Respondent

CORAM:

HON'BLE SHRI RAMESH NAIR, MEMBER (JUDICIAL)
HON'BLE SHRI RAJU, MEMBER (TECHNICAL)

Date of Hearing: 12.03.2018

Date of Decision: 12.03.2018

ORDER NO. A/85590 / 2018

Per: Ramesh Nair

This is Revenue's appeal on the ground that the learned Commissioner though proposed penalty on the respondent under Section 114A of the Customs Act, 1962, but no order was passed for imposition of penalty under Section 114A.

2. Shri J.C. Patel, learned Counsel appearing on behalf of the respondent, submits that in the party's appeal, the main appeal

filed by Shri Murli W Dialani, this Tribunal vide Order No. A/603/08/CSTB/C-I dated 23.10.2008 remanded the matter to the Commissioner for a fresh decision. Therefore, this matter may also be remanded to decide all the issues.

3. On consideration of the submissions made by both sides and perusal of the records, we find that since Tribunal, vide order dated 23.10.2008 in the case of Shri Murli W Dialani, has remanded the matter to the adjudicating authority for passing a fresh order, any decision on merit in the present case shall be pre-judiced to the parties, as the matter on merit is yet to be decided by the Commissioner in remand proceedings. Therefore, we dispose of this appeal by way of remand to the Commissioner for passing a fresh order.

(Operative portion of the order pronounced in Court)

(Raju)
Member (Technical)

(Ramesh Nair)
Member (Judicial)

Sinha