IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI

APPEAL NO: C/1253/2009

[Arising out of Order-in-Appeal No: GOA/CUS/CM/109/2009 dated 16/11/2009 passed by the Commissioner of Customs & Central Excise (Appeals), Goa.]

GKN Sinter Metals Pvt. Ltd. …***Appellant***

Vs

Commissioner of Central Excise & Customs
Goa …***Respondent***

Appearance:

Shri Neerav Mainkar, Advocate for appellant

Shri Ahibaran, Additional Commissioner (AR) for the respondent

CORAM:

Hon'ble Shri Anil Choudhary, Member (Judicial)
Hon'ble Shri C J Mathew, Member (Technical)

Date of hearing: 18/07/2018
Date of decision: 18/07/2018

ORDER NO: A/86938/2018

Per: C J Mathew

Appellant seeks relief from duty of ₹ 74,89,295/- and interest of ₹ 36,83,801/-totalling to ₹ 1,11,73,096/- confirmed in order-in-appeal no. GOA/CUS/CM/109/2009 dated 16th November 2009 of Commissioner of Central Excise & Customs (Appeals), Goa upholding the order of original authority dated 29th June 2009 for non-compliance with obligation, under notification no. 93/2004-Cus dated 10th September 2004, to furnish the 'export obligation discharge certificate' issued by the competent authority within the deadline stipulated therein.

2. Learned Counsel for appellant now submits the redemption letter dated 7th August 2013 issued by Director General of Foreign Trade and state that an amount of ₹ 2,00,000 paid as pre-deposit in accordance with Customs Act, 1962 was sufficient to cover the shortfall recorded in the discharge certificate.

3. Learned Authorised Representative submits that the proceedings were initiated against the appellant not just for the failure to comply with the discharge certificate requirement but also for failure to fulfill the export obligation.

4. Having taken note of the rival submissions, we find that there has been substantial compliance of export obligation by the appellant. With the furnishing of the redemption certificate, the consequential liability, to that extent, ceased to sustain. Accordingly, the demand, but for ₹ 88,716.17 of duty liability and ₹ 84,110.22 of interest,

computed as proportionate to the short-fall in fulfillment of the export obligation, is set aside.

5. Appeal is thus disposed off by limiting the recovery to the above extent.

(Dictated in Court)

(Anil Choudhary)
Member (Judicial)

(C J Mathew)
Member (Technical)

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