CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH – COURT NO. 505

Custom Appeal No. 215 of 2012

(Arising out of Order-in- Original/Appeal No. 689(GRIV) 2011 (JNCH) IMF-603 dated 08.12.2011 passed by the Commissioner of Customs (Import), JNCH Nhava Sheva, Raigad)

M/s. Shah Precicast Pvt. Ltd ....Appellant
Plot No. E-35, M.I.D.C.,
Kupwad Block,
Sangli,
Maharashtra-416436

VERSUS

Commissioner of Customs (Import), ...Respondent
Jawaharlal Nehru Custom House,
Nhava Sheva, Dist. Raigad

APPERANCE:

Shri A. V. Naik, Advocate for the Appellant
Shri Manoj Kumar, Assistant Commissioner for the Respondent

CORAM:

HON'BLE DR. D. M. MISRA, MEMBER (JUDICIAL)
HON'BLE P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85683 / 2019

Date of Hearing: 07/03/2019
Date of Decision: 07/03/2019

P. Anjani Kumar:

The appellants, M/s. Shah Precicast Pvt. Ltd. Have filed this appeal against order -in-appeal no. 689(GRIV)2011(JNCH) dated were found to be serviceable were also present M/s. Spectrum Metal Testing Services have certified that the scrap of the SS Pipes was 2205. Accordingly, the department issued the show cause notice alleging misdeclaration of goods and proposing to enhance the value of the goods and seeking differential duty. The show cause notice was confirmed by the original authority as well as the appellate authorities.

2. Learned Counsel for the Appellants submitted that the supplier had mistakenly sent longer size of pipes of 15 feet length. The importer did not have any knowledge. The pre-Inspection certificate issued by M/s. Geo Chem Middle East certified the goods to be scrap. He has further submitted that he requested the authorities to permit mutilation of goods before use in the factory under the supervision of Customs or Excise officers. He submitted, therefore, that there was no intention to misdeclare on his part and in view of the certified issued by M/s. Geo Chem the show cause notice is incorrect and the impugned order may be set aside.

3. The Ld. Authorised Representative for the Department has reiterated the findings of order-in-original and order-in-appeal.

4. Heard both sides and perused the records of the case. We find that the appellant has imported scrap and the same was certified to be scrap by the inspecting agency at the court of export. However, some of the goods imported were found to be serviceable pipes of standard 2205 as confirmed by the testing agency. It is not denied that the part of the goods contain serviceable SS Pipes classifiable under CTH 7204 2190. The facts are certified by an expert. Therefore, the appropriate duty, is payable on them. Therefore, we uphold the confirmation of duty.

serviceable part in the consignment received, it can not be said that the appellant had mala fide intention, However, the fact remains that a part of the consignment of serviceable parts and as a result part of goods were rendered liable for confiscation, even if intent was not there. Pre-Inspection certificate issued by M/s Geo Chem confirms the goods to be scrap. Further, as the appellants have paid duty benefit of 25% penalty should have been given. Redemption fine of 3,00,000/- is on higher side. Therefore, we find that it will be in the interest of justice to reduce the penalties and fines. Therefore, penalty imposed is reduced to Rs. 50,000/- and redemption fine is reduced to Rs/ 1,00,000/-. Accordingly, the appeal is allowed partly in the above terms.

(Order pronounced in the court)

(Dr. D. M. Mishra)
Member (Judicial)

(P. Anjani Kumar)
Member (Technical)

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