CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST ZONAL BENCH AT MUMBAI

REGIONAL BENCH - COURT NO. 02

Customs Appeal No. 85226 of 2013

(Arising out of Order-in-Appeal No. 625/(GR.IV)/2012 MISC/JNCH IMP-554 dated 06.11.2012 passed by Commissioner of Customs (Appeals), Mumbai-II)

M/s Shah Khetaji Dhanaji & Co. .....**Appellant**
111/19, Thakurdwar Road,
Mumbai-400002

VERSUS

Commissioner of Customs (Import) Nhavasheva .....**Respondent**
Jawaharlal Nehru Custom House,
Nhava Sheva, Taluka-Uran,
Dist. Raigad, Maharashtra-400707

Appearance:

Shri N.S. Patel, Advocate for the Appellant
Shri Manoj Kumar, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO. A/86529 / 2019

Date of Hearing: 26.07.2019
Date of Decision: 26.07.2019

Per: S.K. MOHANTY

Heard both sides and perused the records.

2. In this case, the appellant had filed the bill of entry dated 25.02.2011 for clearance of "Brass Scrap Ebony", classifying the same under CTH 74040012 of the Tariff Act. However, on physical examination of the goods, the department observed that the appellant had wrongly classified the goods and

accordingly, representative samples were drawn and sent for chemical examination. The Deputy Chief Chemist had furnished the report, confirming that the sample contained copper of 46.2%, zinc of 41.1% and nickel of 11.09%. As the imported goods predominantly contained copper, the same were classified under CTH 74040029 and accordingly, the value was determined at Rs.24,15,654/-. The matter was adjudicated against the appellant vide order dated 31.01.2011, wherein the classification of the goods were changed from 74040029 to 74400012 and the goods were confiscated under Section 111(d) and Section 111(m) of the Customs Act, 1962, with the option to redeem the same on payment of redemption fine of Rs.2,00,000/-. Besides, the said order also imposed penalty of Rs.50,000/- on the appellant. The Learned Commissioner (Appeals) has upheld the adjudged dues confirmed on the appellant.

3. The appellant has contended that the customs duty demand confirmed in the adjudication order had already been deposited by the appellant and the present appeal is in context with imposition of redemption fine and penalty. We find that the duty demand involved in the present appeal is around Rs.1.38 Lacs. Considering the quantum of differential duty confirmed by the department, we are of the view that the redemption fine and penalty imposed on the appellant can be reduced in the interest of justice. Accordingly, the impugned order is modified to the extent of reducing the redemption fine from Rs.2,00,000/- to

Rs.50,000/- and the quantum of penalty from Rs.50,000/- to Rs.20,000/-, which should be deposited by the appellant.

4. The appeal is disposed of in above terms.

(Dictated and pronounced in the open court)

(S.K.Mohanty)
Member (Judicial)

(Sanjiv Srivastava)
Member (Technical)

HK