CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH

Custom Appeal No. 89312 of 2018

(Arising out of Order-in-Appeal No. 104/CAC/2018/JNCH/APPEAL-I dated 21.08.2018 passed by the Commissioner of Customs (Appeals), Mumbai II)

M/s. Scorodite Stainless (India) Pvt Ltd .....Appellant
203, 204, 2nd Floor, Omkar Tower,
Third Khetwal Lane, SVP Road,
Mumbai

VERSUS

Commissioner of Customs (NS-IV), ...Respondent
JNCH, Nhava Sheva

APPEARANCE:

Shri S. Singhal, Advocate for the appellant
Shri Manoj Kumar, AC (AR) for the respondent

CORAM:
Hon'ble Ms. Archana Wadhwa, Member (Judicial)

FINAL ORDER No: A/86615 / 2019

DATE OF HEARING : 16.09.2019
DATE OF DECISION : 16.09.2019

After hearing both sides, I find that the appellants were working under Advance Licence Scheme and imported raw materials against which they were supposed to make exports in respect of their export fulfilment obligation. They filed shipping bill on 27.01.2016 for export of these 'Stainless Steel Seamless Pipes' by declaring a weight of goods as 33.478 MT. However, on actual weighment the goods were found to be 30.740 MT, thus there was a difference of 2.738 MT.

2. In the above background, proceedings were initiated against them for alleging misdeclaration and consequently for confiscation of the goods and imposition of penalty. The same resulted in the passing of the order by the original authority for confiscation of goods with an option to the appellant to redeem the same on payment of redemption fine of ₹10 lakhs. In addition, penalty of ₹5 lakhs was imposed upon them.

3. On appeal, Commissioner (Appeals) upheld the impugned orders but reduced the redemption fine from ₹10 Lakhs to ₹5 lakhs and penalty from ₹5 lakhs to ₹2.5 lakhs. The said order of Commissioner (Appeals) is impugned before the Tribunal.

4. The appellant's contention is that they were regularly exporting the said pipes in fulfilment of the export obligation and no discrepancy was ever found. He further submits that as per the orders from the foreign buyers the pipes were to be supplied by metres whereas the declaration in the shipping bills was on the basis of weight, thus leading to small discrepancy. In any case, he submits that the total difference in the consignment was to the extent of 10%, which being in the tolerance limit, should have been allowed by the lower authorities. As such, he prays for setting aside the impugned order.

5. Counter to the argument, Learned AR for the Revenue draws my attention to the finding of the lower authorities that there being admitted difference in the weight of the export consignment, confiscation of the same and imposition of penalty is justified.

6. Appreciating the fact that such consignments were being exported in fulfilment of the export obligation, and the weight declared by the appellant was found to be slightly on the higher side and there being no difference in the earlier consignments and appreciating the fact that such difference was only 10%, I find no justification for the confiscation of goods or imposition of penalty. Accordingly, the impugned order is set aside the appeal is allowed with consequential relief to the appellant.

(Dictated and pronounced in open court)

(ARCHANA WADHWA)
MEMBER (JUDICIAL)

//SR