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

REGIONAL BENCH - COURT NO. 02

Customs Appeal No. 86193 of 2013

(Arising out of Order-in-Appeal No. BR/402/Th-I/2012 dated 14.12.2012 passed by Commissioner of Central Excise (Appeals), Mumbai Zone-I)

M/s RFCL **.....Appellant**
BB-16, Shree Rajlakshmi Commercial Complex, Kalher Village,
Taluka – Bhiwandi,
Dist. – Thane,
Maharashtra

VERSUS

Commissioner of Central Excise, Thane - I **.....Respondent**
4th Floor, Navprabhat Chambers,
Ranade Road, Dadar (West),
Mumbai-400028

Appearance:

Ms. Srinidhi, Advocate for the Appellant
Shri R.K. Dwivedy, 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/87478 / 2019

Date of Hearing: 19.06.2019
Date of Decision: 19.06.2019

Per: S.K. MOHANTY

This appeal is directed against the impugned order dated 14.12.20212 passed by the Commissioner of Central Excise (Appeals), Mumbai – I, wherein benefit of Notification No. 51/96 – Cus., dated 23.07.1996 has been denied to the imported chemicals cleared to the Indian Institute of Chemical Biology for use in the research purposes. The impugned order has held that laboratory chemicals cannot be considered as 'consumables' for grant of the benefit contained in the notification dated 23.07.1996.

2. The learned Advocate appearing for the appellant, at the outset, submitted that the proceedings cannot be initiated against the appellant for denial of the benefit contained in the notification dated 23.07.1996 and for demand of duty inasmuch as the goods in question were imported by 'the Director, Indian Institute of Chemical Biology, Kolkata' and not by the appellant. The learned Advocate has also placed arguments that the imported goods are consumables for research purpose and thus, are eligible for the benefit of the said notification dated 23.07.1996.

3. On the other hand, the learned AR appearing for Revenue has reiterated the findings recorded in the impugned order.

4. Heard both sides and perused the records.

5. Notification dated 23.07.1996 (supra) has recognized the Indian Institute of Chemical Biology as a public funded research institution for grant of the exemption from payment of duty, subject to fulfilment of the conditions prescribed there under. The said notification also provides the duty exemption to the importer of the goods. On perusal of the case records, we find that the Ex-Bond Bills of Entry for home consumption were filed by 'the Director, Indian Institute of Chemical Biology, Kolkata' as the importer and the same were also duly assessed by the jurisdictional customs authorities. Since, the appellant herein is not the importer of the goods and did not present the Bills of Entry for assessment, denial of the benefit of notification dated 23.07.1996 and consequent demand of duty on it is not in conformity with the statutory provisions. Any such action for non-fulfilment of the statutory requirements or condition of the

notification can only be initiated against the ‘importer’ and not on any other person.

6. In view of above, the impugned order cannot be sustained insofar as it has denied the benefit of notification dated 23.07.1996 and confirmed the duty demand on the appellant. Accordingly, the impugned order is set aside and the appeal is allowed in favour of the appellant.

(Operative part of the order pronounced in the open court)

(S.K.Mohanty)
Member (Judicial)

(Sanjiv Srivastava)
Member (Technical)

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