CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

Customs Appeal No: 867 of 2010

[Arising out of Order-in-Appeal No: 195(GR.II C & D)/2010(JNCH)/IMP-186 dated 13th August 2010 passed by the Commissioner of Customs (Appeals), Mumbai – II.]

Videocon Industries Ltd … ***Appellant***
14KM Stone, Aurangabad Paithan Road, Vill: Chitegaon
Tal: Paithan, Dist: Aurangabad, Maharashtra

versus

Commissioner of Customs …***Respondent***
JNCH, Sheva, Mumbai- II

APPEARANCE:

None for the appellant

Shri MK Mall, Assistant Commissioner (AR) for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)
HON'BLE MR P DINESHA, MEMBER (JUDICIAL)

FINAL ORDER NO: A/88583 / 2018

DATE OF HEARING: 04/05/2018
DATE OF DECISION: 04/05/2018

PER: C J MATHEW

This appeal arises from order-in-appeal no. 195(GR.II C& D)/2010 (JNCH)/ IMP-186 dated 13th August 2010 of Commissioner of Customs (Appeals), Mumbai – II which dismissed the submission of M/s Videocon Industries Ltd merely for having been filed beyond the period of condonable delay of 90 days without going into the merits of the dispute.

2. Appellant imported 'HIPS (High Impact Polystyrene) *vide* bill of entry no. 828551/24.03.2009 and, having paid the duty on 26th March 2009, sought re-assessment *vide* letter on 8th July 2009 for availment of notification no. 21/2002-Cus (sl. No. 479) and for alteration of classification to heading no. 3903 of the First Schedule to the Customs Tariff Act, 1975 instead of declared heading no. 3902. The original authority, admittedly, had rejected the request for re-assessment by order dated 8th July 2009.

3. None appeared for the appellant. We have heard Learned Authorised Representative.

4. It would appear that the first appellate authority has computed the period permissible for filing of appeal as from the date of payment of duty. That impugned before the first appellate authority was the rejection of request for re-assessment in order dated 8th July 2009 and the period should have been computed with effect from the date of receipt of that order. Admittedly, the appeal was filed before the first appellate authority on 24th August 2009 which is within the period prescribed in section 128 of Customs Act, 1962.

5. In the light of the facts and circumstances, we set aside the impugned order and remand the dispute back to the first appellate authority for a decision on merits as the appeal had been filed in time.

(Pronounced in open court)

(C J Mathew)
Member (Technical)

(P Dinesha)
Member (Judicial)

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