CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH - COURT NO. 02

Customs Appeal No. 1290 of 2012

(Arising out of Order-in-Original No.24/2012 dated 17.09.2012 passed by Commissioner of Customs (Export) Jawaharlal Nehru Custom House)

Ansh Textiles (P) Ltd. **.....Appellant**
Survey No.140,
Shree Siddhivinayak Industrial Estate,
Sonale Village,
Bhiwandi – 421 302.

VERSUS

Commissioner of Customs (Export), Nhava Sheva **.....Respondent**
Jawaharlal Nehru Custom House,
Post Uran, District – Raigad,
Sheva – 400 707.

WITH

Customs Appeal No. 1291 of 2012

(Arising out of Order-in-Original No.24/2012 dated 17.09.2012 passed by Commissioner of Customs (Export) Jawaharlal Nehru Custom House)

Inderprit Singh Sawhney **.....Appellant**
Director of Ansh Textiles (P) Ltd.,
402, Guru Arjan Apartments,
53, S.V. Road, Santacruz (W),
Mumbai – 400 054.

VERSUS

Commissioner of Customs (Export) Nhava Sheva **.....Respondent**
Jawaharlal Nehru Custom House,
Post Uran, District – Raigad,
Sheva – 400 707.

AND

Customs Appeal No. 1292 of 2012

(Arising out of Order-in-Original No.24/2012 dated 17.09.2012 passed by Commissioner of Customs (Export) Nawaharlal Nehru Custom House)

Ankh Textiles (P) Ltd. **.....Appellant**
C-10, Kalkaji,
New Delhi – 110 019.

VERSUS

Commissioner of Customs (Export), Nhava Sheva **.....Respondent**
Jawaharlal Nehru Custom House,
Post Uran, District – Raigad,
Sheva – 400 707.

Appearance:

Shri G.B. Yadav, Advocate for the Appellant
Shri A.P. Kothari, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. A/87660-87662/2019

Date of Hearing : 03.09.2019
Date of Decision : 03.09.2019

PER : S.K. MOHANTY

These appeals are directed against the impugned order dated 31.08.2012 passed by the Ld. Commissioner of Customs (Exports), JNCH, Nhava Sheva, wherein Polyester Spun Yarn cleared under the Bills of Entry were confiscated, providing the option to redeem the same on payment of redemption fine. Besides, the impugned order also imposed penalty under Section 112 (b) (i) of the Customs Act, 1962 against various persons, including the appellants herein. The impugned order has confirmed the adjudged demands on the ground that the appellant M/s. Ansh Textiles (P) Ltd. had misused the licenses issued under the Duty Free Credit Entitlement (DFSC) in respect of import of Polyester Spun Yarn.

2. The Ld. Advocate appearing for the appellant, at the outset, submitted that the principles of natural justice have been violated by the department inasmuch as the relied upon documents/records were not submitted to the appellant for adjudication of the present dispute. Thus, he submitted that the impugned order cannot be sustained and the adjudged demands cannot be confirmed on the appellants, since no effective opportunity was provided to the appellants for defending their case.

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

4. Heard both sides and perused the records.

5. We find that pursuant to the show cause notice issued by the department, the appellants vide letter dated 28.04.2010 had specifically stated that the list of relied upon documents were not supplied to the appellant for filing of the effective and detailed defence reply. Further, the appellants had also sought for 45 days of time for filing the reply after receipt of the copies of the RUD's. Receipt of the letter dated 28.04.2010 of the appellant had also been acknowledged by the department. However, we find that without specifically considering the prayer made by the appellant for supplying the RUD's, the matter arising out of the show cause notice was adjudicated by the department. Hence, there is gross violation of

the principles of natural justice and as such, the matter requires fresh adjudication at the original level.

6. Therefore, by setting aside the impugned order, the matter is remanded to the original authority for re-adjudication of the matter and for that purpose, the appellants should be supplied with the RUD's and reasonable opportunity be provided for filing the effective and meaningful reply to the show cause notice.

7. In the result, the appeals are allowed by way of remand.

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

(S. K. Mohanty)
Member (Judicial)

(P. Anjani Kumar)
Member (Technical)

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