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

REGIONAL BENCH - COURT NO. 02

Customs Miscellaneous Application No. 85812 of 2019
(on behalf of Appellant)
in
Customs Appeal No. 85678 of 2019

(Arising out of Order-in-Appeal No. 1627 (CRC-SAD-V)2018(JNCH)/Appeal-II dated 24.10.2018 passed by Commissioner of Customs (Appeals), Mumbai-II)

M/s. STP Ltd. ....**Appellant**
309, A Wingh, Sagar Tech Plaza,
Andheri Kurla Road, Saki Naka Junction,
Andheri East, Mumbai-400072

VERSUS

Commissioner of Customs, ...**Respondent**
Nhava Sheva-III
JNPT, Cutom House,
Nhava Sheva, Raigad-400707

Appearance:

Shri C.M. Sharma, Consultant for the Appellant
Shri Manoj Das, Authorized Representative for the Respondent

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

FINAL ORDER NO. A/85996/2021

Date of Hearing: 24.03.2021
Date of Decision: 24.03.2021

Per: S.K. MOHANTY

Heard both sides and perused the case records.

2. The appellant has filed this miscellaneous application, seeking for consideration of the additional grounds urged therein as a part of the grounds of appeal. On perusal of the said application, I am of the view that the grounds raised therein have no bearing on the issue involved in the appeal. Hence, the miscellaneous application is dismissed. With the consent of both sides the appeal is taken up for hearing and disposal today.

3. The learned Commissioner (Appeals) vide Final Order dated 24.10.2015 had allowed the refund benefit amounting to Rs.3,49,959/- holding that the same amount should be re-credited to the DEPB scrips. The appellant has assailed the said impugned order on the ground that instead of re-crediting the refund amount in the DEPB scrips, it should be allowed for refund in cash. In support of such contention, the appellant has relied upon the Final Order No. 20449/2019 dated 31.05.2019 passed by Bangalore Bench of this Tribunal in the case of M/s. M K Agrotech Pvt. Ltd.

4. On perusal of the case records, more specifically the order dated 31.05.2019 (supra), I find that the issue involved in this case is no more open for any debate inasmuch as it has been held that the refund claim can be sanctioned by paying in cash and re-crediting in the DEPB scrips cannot be insisted upon.

5. In view of the settled position of law, I do not find any merits in the impugned order, insofar as it has allowed the refund claim by way of re-crediting in to the DEPB scrips. Therefore, the appeal is allowed in favour of the appellant, holding that it should be allowed for cash refund of the amount paid through DEPB scrips.

(Dictated and pronounced in the open court)

(S.K.Mohanty)
Member (Judicial)

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