CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 87031 of 2019

(Arising out of Order-in-Appeal No. MUM-CUS-RN-IMP-234-1028-19 dated 29.03.2019 passed by the Commissioner of Customs (Appeals), NCH, Mumbai-I)

M/s Object d' Art India **.... Appellant**
Rampur Road, Near Flyover Bridge,
Moradabad (U.P.) – 244 001

Versus

Commissioner of Customs (Imports) **... . Respondent**
CRARS, New Custom House, Ballard Estate,
Mumbai – 400 001

Appearance:

Shri C.M. Sharma, Consultant for the Appellant

Shri Manoj Das, AC, Authorized Representative for the Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)

FINAL ORDER NO. A/86247 / 2021

Date of Hearing: 05.04.2021
Date of Decision: 05.04.2021

Per: Dr. D.M. Misra

Heard both sides.

2. This is an appeal filed against Order-in-Appeal No. MUM-CUS-RN-IMP-234-1028-19 dated 29.03.2019 passed by the Commissioner of Customs (Appeals), NCH, Mumbai-I.

3. Briefly stated the facts of the case are that the appellant was eligible to refund of Rs.9,51,348/-. After prolonged

litigation, the amount was sanctioned by the adjudicating authority vide order dated 24.01.2017. However, interest claim on the said refund was not considered by the adjudicating authority. Aggrieved by the said order, the appellant preferred an appeal before the learned Commissioner (Appeals), who after examining the impugned order, observed that the adjudicating authority since not made any observation on the admissibility of interest, hence, the same cannot be decided by him at the appellate stage. Consequently, he remanded the matter to the adjudicating authority to decide the issue within two months from the date of communication of the order. Against the said order, the appellant preferred the present appeal.

4. At the outset, the learned Advocate for the appellant has submitted that the learned Commissioner (Appeals) ought to not have remanded the matter to the adjudicating authority, but could have decided the interest claimed by them. He submits that during the course of hearing before this Tribunal, by the order dated 28.02.2020 this Tribunal directed the Revenue to file a report as to why the order of the learned Commissioner (Appeals) was not implemented. It is his contention that pursuant to the said direction, the adjudicating authority considered their plea of interest and allowed interest of Rs.7,98,663/- by its order dated 28.04.2020. He submits that the said amount was incorrectly calculated.

5. Learned AR for the Revenue submits that pursuant to the direction of this Tribunal, the Revenue has adjudicated the admissibility of interest and accordingly sanctioned a total interest of Rs.7,98,663/- till 24.01.2017. It is his contention that there is no reason to keep the appeal pending against the impugned order of the learned Commissioner (Appeals), since the grievance of not sanctioning of interest has been addressed by the adjudicating authority vide subsequent order dated 28.04.2020.

6. I have carefully considered the submissions made by both sides and perused the records.

7. The limited issue involved in the present appeal is sanctioning of interest for the refund amount of Rs.9,51,348/-. Initially, the adjudicating authority while sanctioning the refund has not considered the request of applicability of interest on the refund amount as was due to the appellant. In the appeal before the learned Commissioner (Appeals), it was held that since the adjudicating authority has not recorded any finding on the issue of admissibility of interest, accordingly, the matter needs to be reconsidered by the adjudicating authority. Consequently, the matter was remanded with direction to decide the issue within two months from the date of communication of the order. Aggrieved by the said observation, the appellant raised the issue before this Tribunal. During the pendency of the appeal before this Tribunal, the adjudicating authority implemented the order of

the learned Commissioner (Appeals) sand sanctioned the total interest amount of Rs.7,98,663/-. In my opinion, the grievance of the appellant assailing the impugned order of the learned Commissioner (Appeals) has now been addressed by the adjudication order dated 28.04.2020. Thus, the appeal becomes infructuous. Accordingly, the same is dismissed.

(Dictated and pronounced in open court)

(Dr. D.M. Misra)
Member (Judicial)

Sinha