CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH

Excise Appeal No. 377 of 2012

(Arising out of Order-in-Appeal No. PI/RKS/01/2012 dated 05.01.2022 passed by the Commissioner of Central Excise (Appeals), Pune-I.)

M/s. Multiline Electronics Pvt. Ltd. ....Appellant
J-239, MIDC, Industrial Area,
Bhosari, Pune – 411 026

VERSUS

Commissioner of CGST & ....Respondent
Central Excise, Pune-I
ICE House 41-A, Sasson Road,
Opposite Wadia College,
Pune- 411 001

APPERANCE:

None (Written request) for the Appellant

Shri N.N. Prabhudesai, Superintendent, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)
HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO. A/85207 / 2022

Date of Hearing: 09.03.2022
Date of Decision: 09.03.2022

PER: DR. SUVENDU KUMAR PATI

Appellant is absent. A request letter for adjournment of the case has been received from it on the ground that its previous conducting Counsel has expired and it is in the process of appointing of a new Advocate. Simultaneously appellant has made a request in writing expressing its willingness to pay the penalty of Rs.1,45,700/- without any additional cost/penalty burden for closer of the appeal, as the appeal is of more than 10 years old and relevant documents given to the deceased Advocate could not be traced out, for which they are unable to engage a new Advocate immediately.

2. Learned Authorised Representative Shri N.N. Prabhudesai is present. He supports the reasoning and rationality of the order passed by the learned Commissioner (Appeals) and placed his reliance on the following judgments:-

(i) Commissioner of Central Excise, New Delhi Vs. Hari Chand Shri Gopal [2010 (260) ELT 3 (SC)]

(ii) Commissioner of Central Excise, New Delhi Vs. Hari Chand Shri Gopal [2005 (188) ELT 353 (SC)]

(iii) Motiram Tolaram Vs. Union of India [1999 (112) ELT 749 (SC)]

(iv) Mysore Metal Industries Vs. Collector of Customs, Bombay [1988 (36) ELT 369 (SC)]

(v) Commissioner of Customs (Import), Mumbai Vs. Dilip Kumar & Company [2018 (361) ELT 577 (SC)]

3. On perusal of the case record, it is observed that duty of Rs.1,45,700/- that has been confirmed by the learned Commissioner (Appeals) vide his order dated 05.01.2012 had been paid by the appellant on dated 02.03.2012. The operating portion of the Order-in-Original dated 26.09.2011 that has been confirmed by the learned Commissioner (Appeals) runs as hereunder:

(i) I confirm the demand of the Central Excise duty amounting to Rs.1,45,700/- (Rs.87,810/- + Rs.57,890/-) on clearances effected during the March 2010, April 2010 & May 2010, under Section 11A(I) of the Central Excise Act, 1944 alongwith interest in terms of Section 11AB of the Central Excise Act, 1944.

(ii) I drop the demand for reversal of 5% of value of exempted product amounting to Rs.70,728/- (Rs.42,626/- + Rs.28,102/-) for the month of March 2010, April 2010 & May 2010.

(iii) I drop the demand for reversal of 5% value of exempted product amounting to Rs.33,017/- for the period of Oct 2010 to March 2011.

(iv) I impose the equal penalty of Rs. 1,45,700/- under Rule 25(1) (d) of Central excise Rules, 2002 read with Section 11AC of the Central Excise Act. 1944.

4. Appellant paid the confirmed demand under protest and now express its willingness to pay the penalty of Rs.1,45,700/-. Rest of demands were dropped and what is required to be realised is interest under Section 11AB of the Central Excise Act on confirmed demand. As reveals from the case record the disputed period was between March, 2010 and May, 2010, duty demands were ultimately confirmed by the Commissioner (Appeals) on 5.01.2012 and within 2 months appellant had paid the same on 02.03.2012 under protest. Availing "Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019" for penalty component, appellant would have got substantial reduction to the extent of 1/3 of such penalty imposed on it. Now, since appellant has expressed its willingness to pay the entire penalty amount, interest for such a period being too meger, we are of the considered view that in the interest of justice and to put an

end to the litigation that is being carried out for over 12 years, such a genuine request of the appellant can be considered favourably to secure ends of justice by invoking Rule 41 of the CESTAT (Procedure) Rules, 1982. Hence the order.

ORDER

5. The appeal is dismissed and the appellant is directed to pay penalty only of Rs.1,45,700/- within 3 months of receipt of this order. The order passed by the Commissioner of Central Excise (Appeals), Pune-I vide Order-in-Appeal No. PI/RKS/01/2012 dated 05.01.2022 is modified accordingly.

(Pronounced in open court)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

(Sanjiv Srivastava)
Member (Technical)

Prasad