CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

CUSTOMS APPLICATION (EH) NO: 85411 TO 85413 & 85886 TO 86076 OF 2023
(on behalf of appellant)
IN
CUSTOMS APPEAL NO: 87345 TO 87538 OF 2022

[Arising out of Order-in-Appeal No: MUM-CUSTM-AMP-APP-762/2022-23 dated 22nd July 2022 passed by the Commissioner of Customs (Appeals), Mumbai – III.]

Harman International India Pvt Ltd
7 GATT-339/1/1B Village Mahalunge, Tal: Khed
Dist: Pune … ***Appellant***

versus

Commissioner of Customs (Import)
Air Cargo Complex
Sahar, Andheri €, Mumbai - 400009 ***…Respondent***

APPEARANCE:

Shri T Viswanathan and Mr Akhilesh Kangsia, Advocates for the appellant

Shri Ram Kumar, Assistant Commissioner (AR) for the respondent

CORAM:

HON’BLE MR C J MATHEW, MEMBER (TECHNICAL)
HON’BLE MR AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO: A / 86801-86994/2023

DATE OF HEARING: 12/10/2023
DATE OF DECISION: 12/10/2023

PER: CORAM

These 194 applications are for 'out-of-turn' disposal of appeal no. C87345 to 87538/2022, against order[1] of Commissioner of Customs (Appeals), Mumbai – III in which the first appellate authority disposed off challenge to one of the assessments, corresponding to one bill of entry, without passing orders in relation to the other 193 bills of entry.

2. Learned Counsel for the applicant submitted that, during the period immediately after the order of assessment under section 17(5) of Customs Act, 1962 in relation to import of goods under bill of entry no. 66573292/21.01.2020, other bills came to be similarly assessed but without recourse to 'speaking order' mandated by section 17 of Customs Act, 1962. Consequently, they had filed a consolidated appeal before the first appellate authority which came to be disposed off in the manner *supra*. According to him, the issue is of recurring nature and amenable to resolution without taking up too much time of the Tribunal.

3. We have heard Learned Authorised Representative.

4. Considering the submissions made, we allow the applications and, with the consent of both the sides, we take up the appeals themselves for disposal. We have heard Learned Counsel for appellant and Learned Authorised Representative on the appropriateness of

[1] [order-in-appeal no. MUM-CUSTM-AMP-APP-762/2022-23 dated 22nd July 2022]

disposal by the first appellate authority.

5. We find that the first appellate authority had disposed off challenge only to the assessment in one of the bills of entry with the reasoning that each assessment must be challenged separately as prescribed in Customs Act, 1962. It is on record that there is only one order of assessment and it appears that the original authority had merely appended all decisions to that one order of assessment. That is clearly not in accord with the mandate of section 17(5) of Customs Act, 1962.

6. We find that, as per Customs (Appeals) Rules, 1982, each assessment should be challenged separately. At the same time, it is also prescribed that each form of appeal should append the assessment under challenge. In the absence of separate assessment for each import, it was not possible to comply with the requirement therein. It was incumbent upon the first appellate authority to ensure that the original authority comply with the law to enable proper challenge. This, he had failed in doing.

7. The impugned order could have remanded all the appeals for compliance with the mandate of law. As only the lone order of assessment was found to merit remand, there was no reason not to remand back the others also. We do so now and direct the original authority to issue appropriate orders in accordance with law

and in compliance with settled judicial decisions. Accordingly, the impugned order is set aside and the appeals are remanded to the original authority.

(Dictated and Pronounced in Open Court)

(AJAY SHARMA)
Member (Judicial)

(C J MATHEW)
Member (Technical)

**/as*