CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 85559 of 2014

(Arising out of Order-in-Original No. CAO/CC/RS/02/2013 ADJ ACC dated 30.09.2013 passed by the Commissioner of Customs (Import),Air Cargo, Mumbai.)

Commissioner of Customs (Import) **.... Appellant**
Air Cargo Complex, Sahar, Andheri (East), Mumbai-400 099.

Versus

Shri Rajendra Babulal Jain & Others **.... Respondent**
Prop: M/s. Shree Adeeshwar Enterprises (India),
701/B, Sanghvi, Verma A.P. Housing Ltd.,
Mira Road (East), Dist. Thane.

Appearance:

Shri Mahesh Patil, Authorized Representative for the Appellant

Shri Rajendra Babulal Jain (Self), Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85421/2024

Date of Hearing: 16.04.2024
Date of Decision: 16.04.2024

PER: S.K. MOHANTY

The learned adjudicating authority vide the impugned order dated 30.09.2013 has confirmed the duty demand on the importer on the ground that the goods imported by M/s. Shree Adeeshwar Enterprises (India) were undervalued and also imposed penalties on various persons. Insofar as the present respondent is concerned, the impugned order has imposed penalty of Rs. 3,14,23,520/- under Section 114A of the Customs Act, 1962 and Rs. 25 lakhs under Section 114AA *ibid.* Revenue has assailed the impugned order on the ground that the learned adjudicating authority has imposed penalty on the respondent, but the interest attributable to such demand has not been confirmed.

2. When the matter was called, the respondent appeared in person and stated that the Tribunal vide Order No. A/1460 to 1465/14/CSTB/C-I dated 08.09.2014 had remanded back the matter to the adjudicating authority for fresh consideration. Therefore, he prayed that since the respondent is a co-noticee in the adjudication proceedings initiated by the learned Commissioner of Customs, this matter should also be remanded back for a fresh decision on the basis of the earlier order dated 08.09.2014 passed by the Tribunal.

3. On perusal of the case records, we find that the main importer and the other noticees assailed the impugned order dated 30.09.2013 before the Tribunal and the Tribunal vide order dated 08.09.2014, has set aside the impugned order and remanded the matter back to the adjudicating authority for a fresh decision on merits. Since the impugned order was set aside by the Tribunal, we are of the view that the present appeal in isolation cannot be taken up for decision on merits. Therefore, we are of the view that the present appeal should also be allowed by way of remand to the adjudicating authority for a fresh decision on merits.

4. In view of the above, the impugned order passed by the learned adjudicating authority is set aside and appeal is allowed by way of remand to the original adjudicating authority on the basis of order dated 08.09.2014 passed by the Tribunal. Needless to say that the opportunity of personal hearing be granted to the respondent for defending their case before deciding the issue afresh.

5. In the result, the appeal is allowed by way of remand.

(Dictated and pronounced in open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

Sinha