CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 90068 of 2014

(Arising out of Order-in-Appeal No. MUM-CUSTM-AMP-372-APP-/14-15 dated 10.09.2014 passed by the Commissioner of Customs (Appeals), Mumbai Zone-III)

Ray Enterprises **.... Appellant**
18, Industrial Area, AmbalaCantt.,
Haryana- 1363 001.

Versus

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

Appearance:

Shri Prashant Patankar a/w Shri Ajinkya Vaishampayan, Advocates for the Appellant

Shri Ranjan Kumar, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. A/85681/2024

Date of Hearing: 11.07.2024
Date of Decision: 11.07.2024

Per: S.K. MOHANTY

Heard both sides and perused the case records.

2. The learned Commissioner of Customs (Appeals), Mumbai-III vide the impugned order dated 10.09.2014 has dismissed the appeal filed by the appellant on the ground that the directions contained in the order dated 18.11.2023 of the Tribunal, with regard to making a pre-deposit has not been complied with by the appellant. On perusal of the case records, we find that the appellant vide their letter dated 27.12.2023 had enclosed the copy of the demand draft for Rs.1,50,000/- issued in favour of "Commissioner of Customs ACC, A/c Ray Enterprises" dated 27.12.2013 for depositing the amount as directed by the Tribunal vide order dated 18.11.2013. However, the

said demand draft was returned by the office of the Commissioner (Appeals), under the cover of the letter dated 02.01.2014 stating that the pre-deposit amount is required to be made in any of the designated banks for collection of Customs Duty under proper challan. Pursuant to the letter dated 02.01.2014 issued by the office of the Commissioner (Appeals), the appellant had complied with the directions contained therein and deposited the challan before the department on 23.01.2014. Since, the appellant had prepared the demand draft within a period of six weeks from the date of the order of the Tribunal, it has to be construed that the order of the Tribunal has been duly complied with. Therefore, we are of the view that the appeal rejected by the learned Commissioner (Appeals) should be restored to its original number for a decision on merits.

3. In view of the above, the impugned order passed by the learned Commissioner (Appeals) is set aside and the matter is remanded back to him for deciding the appeal on merits. Needless to say, that opportunity of personal hearing should be granted to the appellant before deciding the issue afresh.

4. 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)

SM