CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

E-Hearing

Customs Appeal No.85676 of 2020

(Arising out of Order-in-Appeal No.191 (EP Monitoring Cell)/2019(JNCH)/Appeal-I dated 03.12.2019 passed by the Commissioner of Customs (Appeals), Mumbai-II)

Jagdish Electronics India Pvt Ltd. **.... Appellant**
Gat No. 162, Pirangut Village,
Lavale Phata, Mulshi Taluka,
Pune – 411 004.

Versus

Commissioner of Customs, Nhava Sheva-II **.... Respondent**
Jawarhalal Nehru Customs House,
Nhava Sheva, Uran,
Dist-Riagad, Pin- 400 707.

Appearance:

Shri Shankar Patil, Advocate for the Appellant

Shri Krishna Murari Azad, 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/85038/2025

Date of Hearing: 09.01.2025

Date of Decision: 09.01.2025

Per: S.K. Mohanty

Briefly stated, the facts of the case are that the appellants had imported capital goods under EPCG License and claimed the benefit of concessional rate of duty in terms of the Customs Notification No. 97/2004-Cus dated 17.09.2004. For the purpose of availing the benefits provided under the said notification, the appellants had executed a Bond and had also furnished an undertaking, abiding themselves for fulfillment of the conditions contained in the bond & EPCG License as well as provided for in the said notification. The case of the Department is that the appellants did not comply with the requirement of the said notification and accordingly, proceeded against the appellants for denying the benefit of notification dated 17.09.2004.

2. When the matter was called out for hearing, learned Advocate appearing for the appellant submitted that Regularization letter dated 11.05.2022 had already been issued by the Foreign Trade Development officer, confirming the fact that the export obligation as per the EPCG License has already been fulfilled by the appellants in terms of regularisation by payment of customs duty along with interest as provided under Hand Book of Procedures to Foreign Trade Policy. Since the certificate dated 11.05.2022 was submitted for the first time before the Bench and there was no occasion on part of the original authority to examine the same at the time of adjudication of the matter, we are of the view that the matter should be remanded back to the original authority for the limited purpose of verification of the certificate dated 11.05.2022 for the purpose of passing of the *de novo* adjudication order. While passing the fresh adjudication order, the original authority should specifically record his observation, whether the export obligation has been fulfilled or otherwise.

3. In view of the above, the impugned order is set aside and the appeal is allowed by way of remand to the original authority for passing of *de novo* adjudication order in line with our above observations. Needless to say that the personal hearing should be granted to the appellant before deciding the matter afresh. Since the issue pertains to the period 2005-06, we direct the original authority to complete the *de novo* adjudication proceeding preferably within a period of three months from the date of receipt of this order.

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)

Sinha