CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 88217 of 2014

(Arising out of Order-in-Appeal No. 1696 (Gr.V)/2014(JNCH)/IMP-1637 dated 08.04.2014 passed by the Commissioner of Customs (Appeals),Mumbai-II)

M/s TTK Prestige Limited **.... Appellant**
Vemardi Road, Village –Junuaitharadi,
Taluka – Karjan, Dist. – Vadodara,
Gujarat – 391 240

Versus

Commissioner of Customs (Import), Mumbai-II.... Respondent
JNCH, Nhava Sheva, Taluka – Uran,
Dist. – Raigad, Maharashtra – 400 707

Appearance:

Ms. R. Dakshina Murthy, Advocate for the Appellant

Shri Piyush Badhe Barasu, 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/85039/2025

Date of Hearing: 09.01.2025

Date of Decision: 09.01.2025

PER: S.K. MOHANTY

Heard both sides and perused the case records.

2. This appeal is directed against the impugned order dated 08.04.2014 passed by the learned Commissioner of Customs (Appeals), Mumbai-II in upholding the adjudication order dated 27.09.2013 passed by the Additional Commissioner of Customs, JNCH, Nhava Sheva. The appeal filed by the appellant was dismissed by the learned Commissioner (Appeals) on the sole ground that the goods imported under the Bills of Entry (B/E) No. 3044899 dated 20.08.2013, by declaring the goods as "old and used machinery parts of Pan super forged" are not confirming to the definition of 'capital goods' as provided for in the Foreign Trade Policy, 2009-2014.

3. Learned Advocate appearing for the appellant submitted that the goods imported by them under the cover of B/E dated 20.08.2013 were 'moulds and dies' of the machines installed in the factory premises and thus, are confirming to the definition of capital goods as provided under the Foreign Trade Policy. To support the stand that the imported goods were used in the factory for manufacturing of resultant final product, learned Advocate has relied upon the Chartered Engineer's certificates dated 14.06.2013 and 28.08.2013.

4. On examination of the certificates referred above, we find that such certificates were issued by the Chartered Engineer upon inspection of the actual installation of the goods imported by the appellants. However, we find that both the authorities below have not discussed about the contents in those certificates, which were submitted by the appellant before the Tribunal. Therefore, we are of the view that for the limited purpose of verification of the Chartered Engineer's certificates dated 14.06.2013 and 28.08.2013, the matter should be remanded back to the original authority.

5. In view of the above, the impugned order is set aside and appeal is allowed in favour of the appellant by way of remand to the original authority. The original authority should verify the Chartered Engineer's certificates and other documents submitted/ to be submitted by the appellant for proper fact finding, whether the imported goods are confirming to the definition of the capital goods provided under the Foreign Trade Policy. Needless to say that opportunity of personal hearing should be granted to the appellant before deciding the issue(s) afresh.

6. 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