CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI
REGIONAL BENCH, COURT NO. 5

CUSTOMS MISC APPLICATION NO. 86887 OF 2024
IN
CUSTOMS APPEAL NO. 85805 OF 2022

(Arising out of Order-In-Appeal No. MUM/CUSTM/PAX/APP/1371/2021-22 dated 28.12.2021 passed by The Commissioner of Customs (Appeal).)

DGN JEWELS
184, Shop No. 73,
Kucha Mahajani, Chandani chownk,
Delhi-110 006.

Appellant

Vs.

THE COMMISSIONER OF CUSTOMS, (PREV)
NCH, Ballard Estate,
Mumbai-400 001.

Respondent

Appearance:
Shri N.D. George, Advocate for the Appellant.

Shri Deepak Sharma, Assistant Commissioner, Authorized Representative for the Respondent.

CORAM:
HON'BLE MR. ANIL.G.SHAKKARWAR, MEMBER (TECHNICAL)

Date of Hearing: 28.02.2025
Date of Decision: 28.02.2025

FINAL ORDER NO :- A/85293/2025.

Heard from both the sides.

2. Brief facts of the case are that the Order-In-Original dated 24.02.2020 was passed through which the original authority, Deputy Commissioner of customs ordered release of 63.17 grams of gold in three pieces, ordered confiscation by him through the same order on payment of redemption fine of Rs. 10,000/- after customs duty of Rs. 35,453/- is paid by the appellant. In the said order, there was no penalty imposed on the appellant and appellant was not directed to pay interest on the customs duty ordered to be paid. The said order was received by Principal Commissioner (Preventive), Mumbai on 27.02.2020 as per review order issued under file no. F. No. VIII(b) 28/(42) CUS/M&P/2020. Under the provisions of sub-section (2) of the Section 129 B Principal Commissioner Customs Preventive, Mumbai reviewed the said Order-In-Original dated 24.02.2020 through which gold was ordered to be released on payment of penalty and redemption fine as stated above and a review order was passed on 14.08.2020 directing Deputy Commissioner Customs Preventive who was Original Authority to file appeal before Commissioner (Appeals) on the grounds of appeal stated in the said review order.

Subsequently, appeal was filed before Commissioner (Appeal) and learned Commissioner (Appeal) has passed the impugned order on 28.12.2021 and the said impugned order which is outcome of appeal filed on 14.09.2020 is challenged here before this Tribunal.

3. Sub-section (3) of Section 129 B of Customs Act, 1962 authorizes Principal Commissioner to review order passed by adjudicating authority subordinate to him within a period of three months from the date of communication of decision or order of the adjudicating authority. It is clear from the said review order dated 14.08.2020 that original order was received by Principal Commissioner on 27.02.2020 and the review order was not passed within three months from 27.02.2020 and the same was passed on 14.08.2020 which is beyond three months.

4. I, therefore, hold that review order dated 14.08.2020 is null and void and has no force of law. I, therefore, hold that impugned Order-In-Appeal which is result of passing of the said review order is not in accordance with law and therefore the same is set aside. Since the impugned Order-In-Appeal is set aside, the Order-In-Original dated 24.02.2020 is upheld.

5. The Respondent Revenue shall implement Order-In-Original dated 24.02.2020 and grant relief to the appellant if any admissible in accordance with law.

6. In above terms, the appeal is allowed.

7. The miscellaneous application is not connected with the issue, therefore, the said application is dismissed.

(Dictated and pronounced in open court)

(ANIL.G.SHAKKARWAR)
MEMBER (TECHNICAL)

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