CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Early Hearing Application No. 86217 of 2024
(On behalf of Appellant)

In

Customs Appeal No. 85046 of 2020

(Arising out of Order-in-Appeal No. MUM/CUSTM-AMP-APP-516/19-20 dated 25.09.2019 passed by the Commissioner of Customs (Appeals), Mumbai-III)

M/s Nico Extrusion Ltd. **.... Appellant**
A/54, New Empire Premises CHS Ltd.,
Kondivita Road, Andheri (East),
Mumbai – 400 059

Versus

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

Appearance:

Ms. Neha Chakraborty, Advocate for the Appellant

Shri Jitesh Kumar Jain, 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/85358/2025

Date of Hearing: 16.01.2025
Date of Decision: 16.01.2025

PER: S.K. MOHANTY

Heard both sides and perused the case records.

2. Applicant has filed this miscellaneous application, seeking early hearing of the appeal. On going through the averments made in the said application, we are of the view that the prayer made in support of out-of-turn hearing of appeal can be considered and accordingly, the miscellaneous application is allowed. Since the issue in this appeal lies in a

narrow compass, with the consent of both sides, the appeal is taken up for hearing and disposal today.

3. Briefly stated, the facts of the case are that the appellants had imported different types of Aluminium Scrap material and self-assessed Bills of Entry (B/Es) under Section 17(1) of the Customs Act, 1962. However, the invoice values declared by the appellants in the B/Es were not accepted by the proper officer of Customs and the same was enhanced through the process of re-assessment, in terms of Section 17(4) *ibid*. Since, the mandatory requirement of Section 17(5) *ibid* was not complied with by the proper officer in passing the speaking order, the appellants had assailed the re-assessed B/Es by way of filing an appeal before the learned Commissioner (Appeals). Appeal filed by the appellants was disposed of by the learned Commissioner of Customs (Appeals), Mumbai-III vide the impugned order dated 25.09.2019, in remanding the matter back to the proper officer for passing of a speaking order in terms of Section 17(5) *ibid*. Feeling aggrieved with the impugned order, the appellants have preferred this appeal before the Tribunal.

4. It is an admitted fact on record that the self-assessed B/Es by the appellants were examined by the proper officer and reassessment of B/Es was ordered for enhancing the value of the imported goods. However, we find that while re-assessing the B/Es, the proper officer had not passed the speaking order as mandated under Section 17(5) *ibid*. Since passing of speaking order is a mandatory requirement under the statute, in our view, the learned Commissioner (Appeals) has rightly remanded the matter back to the proper officer for passing of the speaking order. Therefore, we do not find any merits in the appeal filed by the appellants. However, considering the fact that the matter arising out of the impugned order has already been remanded back to the proper officer for passing of the

speaking order, in terms of sub-section (5) of Section 17 *ibid*, we direct the proper officer to complete the re-assessment proceedings within a period of 15 days from the date of receipt of the present order. The timeline given by us in the present order is in conformity with the provisions of sub-section (5) of Section 17 *ibid*.

5. The appeal is disposed of in the above terms.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha