CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH – COURT NO.1

Custom Appeal No. 87172 of 2015

[Arising out of Order-in-Original No. CC-RS/06/2014-15 dated 04.07.2015 dated passed by the Commissioner of Customs (Import) Air Cargo Complex, Mumbai]

Grant Medical Foundation **......Appellant**
Ruby Hall Clinic 40, Sasoon Road,
Pune- 411 001.

VERSUS

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

WITH

Custom Appeal No. 87062 of 2016

[Arising out of Communication Order No. SIIB/Gen-55/99 ACC dated 05.04.2016 dated passed by Deputy Commissioner of Customs, SIIB(I), ACC, Sahar, Mumbai]

Grant Medical Foundation **......Appellant**
Ruby Hall Clinic 40, Sasoon Road,
Pune- 411 001.

VERSUS

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

APPEARANCE:

Ms. Madhura Khandekar, Advocate for the Appellants
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/85482-85483/2025

Date of Hearing:07.03.2025
Date of Decision:07.03.2025

PER: S.K. MOHANTY

Heard both sides and perused the case records.

2. The appellants have preferred these appeals before the Tribunal, against the impugned order dated 04.07.2015 passed by the learned Commissioner of Customs (Import), Mumbai, wherein the original authority had denied the benefit of concessional rate of duty claimed by the appellants under Notification No. 65/1988 dated 01.03.1988. However, in the said order, the original authority had not quantified the demand payable by the appellants. Such quantification of demand was made subsequently by the Deputy Commissioner of Customs, which was communicated to the appellants vide his letter dated 05.04.2016. Since, the impugned order dated 04.07.2015 was not quantified the demand and the same was done by the Deputy Commissioner of Customs in his letter dated 05.04.2016, the appellants has assailed both the impugned orders by way of filing appeals before the Tribunal.

3. We find that the original authority vide the impugned order dated 04.07.2015 has simply denied the benefit provided by the appellant under the Notification No. 65/1988 dated 01.03.1988 to the appellants. However, the resultant duty demand was not confirmed in the said order. Insofar as quantification of the duty demand is concerned, sub-section (8) of Section 28 of the Customs Act, 1962 mandates that the proper officer shall quantify the duty demand. Since, the authority confirming the duty demand is required to quantify such demand by himself and such function cannot be assigned to any other person/persons, we are of the view that both the impugned orders (supra) passed by the authorities below cannot be sustained for judicial scrutiny. We find that in an identical situation, in the case of Bombay Hospital Trust, this Tribunal vide Final Order No. A/85758-85759/2024 dated 30.07.2024 has remanded the matter back to the original

authority for quantification of the duty demand, that was payable by the importer concerned therein. Since, the issue involved in the case of Bombay Hospital Trust is entirely identical to the facts and circumstances of the case, we are also of the view that the present appeals should be allowed in favour of the appellants by way of remanding the matter back to the original authority for quantification of the duty demand.

4. Therefore, both the impugned orders are set aside and the matters arising there from are remanded to the learned Commissioner of Customs for passing of the adjudication order in quantifying the demand. Needless to say, that opportunity of personal hearing should be granted to the appellants before deciding the issue afresh.

5. In the result, the appeals are allowed by way of remand.

(Dictated and pronounced in the open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

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