**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI**

**WEST ZONAL BENCH**

**CUSTOMS APPEAL NO: 87428 OF 2023**

[Arising out of Order-in-Original No. 35/2023-24/CAC/CC/IMPORTII/KV/Adjn (Imp-II)/NCH dated 31st August 2023 passed by the Commissioner of Central Excise (Import–II), Mumbai.]

**Skyda Carrywell Pvt Ltd**
Gala No.106, Hissa No. 1201, 1st Floor
Pritesh Complex, Val Village, Bhiwandi, Thane–421302 … ***Appellant***

*versus*

**Commissioner of Customs (Import-II)**
New Customs House, Ballard Estate, Mumbai - 400001 ***…Respondent***

*APPEARANCE:*

Shri Prashant Patankar, Consultant for the appellant

Shri Deepak Sharma, Assistant Commissioner (AR) for the respondent

**CORAM:**

**HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)**
**HON'BLE MR AJAY SHARMA, MEMBER (JUDICIAL)**

**FINAL ORDER NO: 86000/2025**

DATE OF HEARING: 24/04/2025
DATE OF DECISION: 24/04/2025

*PER: C J MATHEW*

This appeal of M/s Skyda Carrywell Pvt Ltd pertains to clearance of 'miscellaneous garments', imported from Peoples

Republic of China and sought to be cleared *vide* bill of entry no. 3206077/07.11.2022, that, on suspicion of being undervalued, were subjected to proceedings thereafter that concluded with rejection of the declared value and re-assessment of duty liability on re-determined value and at rate of duty corresponding to revised classification with order for recovery of consequential differential duty of ₹ 52,36,106, confiscation thereof under section 111(m) and section 111(l) of Customs Act, 1962, with option to redeem on payment of fine of ₹ 16,00,000 under section 125 of Customs Act, 1962, besides imposing penalty of like amount under section 114A of Customs Act, 1962 on the importer.

2. It is the contention of the appellant that their plea for re-export was rejected on the ground that

> *'26. I also find that the importer in its written submission dt. 06.07.2023 has requested for re-export of the goods identified as 'pullover' by the department and marked as GT-02, GT-04, GT-05 and GT-06 in Table — III above. In this context, I find that the importer has not refuted the fact that the imported goods were indeed ordered by them or that the imported goods were wrongly supplied and not meant for them. I find that the importer's request for allowing the re-export of the subject goods is borne out of their unwillingness to bear the enhanced duty liability on the subject goods. I note that the investigation has brought out that similar goods were cleared by the importer on previous occasion as well. I find that the possibility of mis-declarations in the consignment already cleared*

> *cannot be entirely ruled out. At this juncture, it is important to appreciate the efforts made by the investigation in with holding the subject consignment and unearthing the duty evasion sought to be made in the instant case. I find that allowing the re-export of the impugned goods will not only lead to substantial loss of revenue but will also undermine the efforts of the subject investigation. I find that re-export can be allowed only in bonafide cases and especially in cases wherein the duty is sought to be recovered under Section 28(1) of the Customs Act, 1962, or in cases wherein the goods are prohibited or restricted subject to the condition that the importer can place reasonable grounds and justification for allowing the same. I find that in the instant case the duty evasion is as a result of wilful mis-statement and suppression of facts by the importer and hence this is a case of import fraud. Further, the importer has failed to provide any reasonable or proper ground to allow the re-export of the subject goods. In view of the above, I hold that re-export of the subject goods viz. goods identified as 'pullover' by the department and marked as GT-02, GT-04, GT-05 and GT-06 in Table-III, as requested by the noticee above cannot be allowed.'*

3. The goods were held liable to confiscation and allowed to be redeemed. Once the goods are confiscated with option for redemption there is no compulsion that the goods be cleared for home consumption. The impugned order has erred in rejecting the request for re-export. On the limited plea made on behalf of the appellant by the Learned Consultant that the issue of re-export of goods is to be decided afresh, the impugned order is set aside and, to that limited

extent, remanded back to the original authority for considering the request of the appellant.

4. Accordingly, appeal is allowed by way of remand.

*(Operative part of the order pronounced in the open court on 24$^{th}$ April 2025)*

**(AJAY SHARMA)**
***Member (Judicial)***

**(C J MATHEW)**
***Member (Technical)***

**/as*