CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH

Customs Appeal No. 86618 of 2023

(Arising out of Order-in-Original No. MUM/CUS/MMT/16/2022-23/ADJN/APSC dated 30.03.2023 passed by the Commissioner of Customs, Airport Special Cargo Commissionerate (APSC), Mumbai.)

M/s. Rosy Blue (India) Private Limited ....Appellant
1608/1609, Prasad Chamber,
Opera House, Mumbai – 400 004

VERSUS

Commissioner of Customs (II) ....Respondent
(Airport Special Cargo Commissionerate)
Adjudication Cell, 5th Floor,
Avas Corporate Point, Makwana Lane,
Andheri (East), Mumbai – 400 059

APPERANCE:

Shri Rohan Shah, Sr. Advocate with
Shri Shrey Bhardwaj, Advocate and
Ms. Renita Alex, Advocate for the Appellant

Shri Ram Kumar, Deputy Commissioner, Authorised Representative for the Respondent

CORAM:

HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 86183/2025

Date of Hearing: 28.07.2025
Date of Decision: 28.07.2025

PER: DR. SUVENDU KUMAR PATI

We have heard from both the sides on the issue of classification of imported diamonds made between July, 2019 and November, 2020 through 24 Bills of Entries, which Appellant had classified as "Rough Diamond" subjected to 'nil' rate of duty but Department classified it as "Sawn Diamond" and issued show-cause notice demanding 7.5% basic Customs duty totally of ₹5.19 crores that got confirmed also through the adjudication order dated 30.03.2023. Appellant assails the legality of the said order alongwith redemption fine of ₹12.50 crores, on the following ground.

2. Learned Counsel for the Appellant submits that even if Department's stand on the order passed by the learned Commissioner is taken to be as right, it is contrary to the recent Notification issued by the Government of India through CBIC *vide* Notification No. 70/2024-Customs (NT) dated 23.10.2024, in which retrospective effect is given to "Sawn Diamond" for non-payment of any import duty on importation of those goods. He further makes a submission that KP certificate, indicating no further processing on the "Simply Sawn Diamond", that is a pre-condition for waiver of duty in import of "Sawn Diamond", is not applicable to his case since it relates to other Notification No. 02/2022-Customs dated 01.02.2022.

3. Learned Authorised Representative takes note of the submission and he has also conceded to the fact that the said Notification No. 70/2024-Customs (NT) covers the period of dispute and the classification, that is confirmed through the adjudication order.

4. Taking note of the submission, we are of the view that this Notification No. 70/2024-Customs (NT) was unavailable with the Commissioner at the time of adjudication and as because it has also covered the period of dispute since relate to import of goods during the period from 01.07.2017 to 01.02.2022, it would be appropriate to

remand the matter back to the Commissioner for re-adjudication on the basis of Notification No. 70/2024-Customs (NT), if applicable to the Appellant, so as to grant necessary relief sought by it before this forum. Hence the order.

THE ORDER

5. The appeal is allowed by way of remand and the order passed by the Commissioner of Customs, Airport Special Cargo Commissionerate (APSC), Mumbai *vide* Order-in-Original No. MUM/CUS/MMT/16/2022-23/ADJN/APSC dated 30.03.2023 is hereby set aside for the said purpose.

(Dictated and pronounced in the open court)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

(Anil G. Shakkarwar)
Member (Technical)

Prasad