CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 85375 of 2021

(Arising out of Order-in-Original No. 62/2020-21/CAC/CC (Import-II)/MKK dated 22.01.2021 passed by the Commissioner of Customs (Import-II), Mumbai.)

M/s Royale Impex **.... Appellant**
2-A, Jagruti Apartments, Shivaji Chowk,
Kalwa, Thane, Maharashtra- 400 605.

Versus

Commissioner of Customs (Import-II), Mumbai **.... Respondent**
New Custom House, Ballard Estate,
Mumbai- 400 001.

APPEARANCE:

Shri V.M. Doiphode, Advocate for the Appellant
Shri Ranjan Kumar, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

FINAL ORDER NO. A/87603/2024

Date of Hearing: 06.02.2024

Date of Decision: 06.02.2024

Per: S.K. MOHANTY

Heard both sides and perused the case records.

2. Irregular importation of Rough Marble Blocks is the subject matter of present dispute. The Original authority in impugned order dated 25.01.2021 has ordered for confiscation of such goods under Section 111(d) of the Customs Act, 1962, providing the option to the appellant to redeem the same on payment of redemption fine of Rs. 3,00,000/-. Besides, the said impugned order has also imposed penalty of Rs. 9,50,000/- on the appellant under Section 112(a)(i) *ibid*.

3. Learned Advocate appearing for the appellant has placed on record the order dated 11.05.2023 passed by the co-ordinate Bench of this Tribunal in Customs Appeal No. 85326 of 2021. By relying upon such order, he has stated that in identical set of facts, for importation of the same goods, the matter came up before the Tribunal in the case of the appellant itself and the Tribunal vide order No. A/85901/2023 dated 11.05.2023 had modified the

adjudication order, in reducing the quantum of penalty to Rs. 48,000/-, which was paid by the appellant during the course of adjudication proceedings. Thus, learned Advocate submitted that since in the similar set of facts, the Tribunal has considered for reduction in the quantum of penalty, in the present appeal also the quantum of penalty can be reduced. He paid for reducing the quantum of penalty to Rs. 75,000/-, which had already been paid before adjudication of the matter.

4. On perusal of the case records, I find that in the earlier adjudication order dated 22.01.2021 passed by the Commissioner of Customs (Import-II), Mumbai, in imposing penalty on the appellant, this Tribunal vide Final Order No. A/85901/2023 dated 11.05.2023 had reduced the quantum of penalty and also confirmed the redemption fine paid by the appellant. Considering the facts that the issue involved in the present appeal is identical to the issue already decided by the Tribunal vide order dated 11.05.2023, I am of the view that contrary stand cannot be taken to decide the appeal differently. Accordingly, by accepting the order dated 11.05.2023 passed by the co-ordinate Bench, the impugned order dated 25.01.2021 passed in the present case is modified, to the extent of reducing the penalty to Rs.75,000/- which has already been paid by the appellant during the course of adjudication proceedings. Since, the appellant did not contest imposition of redemption fine in this appeal, I am of the view that such fine imposed and confirmed in the adjudication order stands, which should be paid forthwith by the appellant, if not paid yet.

5. In view of the above, the impugned order is modified, to the extent of reducing the quantum of penalty from Rs. 9,50,000/- to Rs. 75,000/-.

6. The appeal is disposed of in above terms.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Sinha