(2023) 07 CESTAT CK 0050

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Customs Appeal No. 40088 Of 2014

Commissioner Of Customs APPELLANT

Vs

M/S. K.I. International Ltd RESPONDENT

Date of Decision : 26-07-2023

Acts Referred:

Citation : (2023) 07 CESTAT CK 0050

Hon'ble Judges : Sulekha Beevi C.S., Member (J);Vasa Seshagiri Rao,Member (T)

Bench : Division Bench

Advocate : Anandalakshmi Ganeshram, A.Mudimannan

Final Decision : Dismissed

Judgement

Sulekha Beevi C.S., Member (J)

1. Brief facts are that the respondent filed a refund claim under Notification No. 102/2007, dated 14.09.2007 as amended. After due process of law, the original authority sanctioned the refund. Against this, the Department filed an appeal before the Commissioner (Appeals) who vide order of impugned herein upheld the order of sanctioning the refund. Hence this appeal.

2. The learned AR Ms. Anandalakshmi Ganeshram appeared for the Department. It is submitted by her that out of 27 Bills of Entry, only 9 Bills of Entry with relevant documents were in the case file. The documents in respect of remaining 18 Bills of Entry were not available. It can be thus seen that the refund sanctioning authority has not scrutinized the entire documents while sanctioning the refund. The learned AR prayed that the appeal may be allowed.

3. The Ld. Counsel Shri. A. Mudimannan, Advocate appeared and argued for the respondent. It is submitted that the refund sanctioning authority while passing the Order-in-Original has considered the documents and verified the invoices, Bills of Entry, Charted Accountant Certificate etc., produced by the appellant. The Department is now alleging that the original authority has not verified the

documents which is without any basis. Even before the Commissioner (Appeals), the Department has not put forward any specific ground to allege that the original authority has not verified the documents. This aspect has been noted by the Commissioner (Appeals) in para 5 & 6 of the impugned order. The learned counsel prayed that the appeal may be dismissed.

4. On perusal of the grounds stated in the appeal, we find that there is no specific point raised by the Department. It is vaguely stated that the original authority has not examined the documents. On perusal of the orders in original it is seen that 27 bills of entry were taken up for processing the claim of refund. The refund sanctioning authority has recorded the conclusion with regard to the details of requisite documents, submitted by respondent. The payment of additional customs duty, sale of goods, payment of VAT, correlation of VAT with goods sold, limitation, endorsement regarding non admissibility of CENVAT credit in sales invoices, assignment of goods under RSP, goods sold in consignment, benefit of exemption notification, and the compliance of Chartered Accountant Certificate are discussed in the order in original. It can be seen that the original authority has taken in to consideration the entire points required for sanctioning the refund. Department did not have any legal or factual grounds in the appeal filed before the commission (Appeals) also. It is noted by the Commissioner (Appeals) in the impugned order as under :-

"Hence I am of the opinion that the refund authority has just made the lower authority to file an appeal contrary to his own justification in the impugned order without pointing out the specific Lacunae".

5. In the grounds of appeal, as we have already stated there is no specific points raised by the Department. After considering the arguments and perusal of the records, we are of the considered opinion that the impugned order does not call for any interference.

6. The Department appeal is dismissed. The cross objections filed by the respondent is accordingly disposed off.

