(2014) 12 CESTAT CK 0008

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Appeal No. 53483 Of 2014

Mediaguru News Pvt. Ltd. APPELLANT

Vs

CC, New Delhi RESPONDENT

Date of Decision : 18-12-2014

Acts Referred:
Customs Act, 1962 — Section 60, 61

Citation : (2014) 12 CESTAT CK 0008

Hon'ble Judges : Ashok Jindal, J;R. K. Singh, Technical Member

Bench : Division Bench

Advocate : B.K. Singh, Suchitra Sharma

Final Decision : Disposed Of

Judgement

1. The appellant is in appeal against the impugned order wherein Id. Commissioner has rejected the application for extension of period of warehousing

under Section 61 of the Customs Act, 1962. Consequently, the permission of re-export of impugned goods was also denied.

2. The brief facts of the case are that the appellants imported one consignment of News Swift LT 120 CM KU Basic System with standard

equipment on 4.5.2012 and sought for warehousing under Section 60 of the Customs Act, 1962 and filed Bill of Entry on 5.5.2012. The appellants

were allowed for warehousing the said goods for one year which expired on 5th May 2013. The appellants could not apply for extension of

warehousing period under Section 61 of the Customs Act 1962 before 5th May 2013 but on 5th June 2013, the appellants filed an application for

extension of warehousing period before Id. Commissioner the same was considered and was rejected and it was held that as the goods are not

warehoused. Therefore, the goods are liable for confiscation. Consequently the redemption fine was imposed of Rs.20 lakhs and penalty of Rs.5 lakhs

was also imposed along with demand of duty on the said goods. The appellant challenged the said order before this Tribunal and this Tribunal vide

order dated 11th Feb. 2014 remanded the matter back to the Id. Commissioner for re-consideration of their application for extension of warehousing

period and consequently whether the goods can be re-exported or not. In remand proceedings, the Id. Commissioner again rejected their application

for extension of warehousing period. Consequently, duty was demanded and goods were confiscated, redemption fine and penalties were imposed.

Aggrieved from the said order, the appellant is before us.

3. Heard the parties. Considered the submissions.

4. We find that as per Circular No. 47 /2002-Cus dated 29th July 2002 the Id. Commissioner is having power under Section 61 of the Customs Act,

1962 to condone the delay by extending the period for warehousing period. The said exercise has not been done by Chief Commissioner in the

impugned order. Therefore, in these circumstances when the power is given the period of warehousing with a delay, in these circumstances, the same

should be exercised judiciously but the same was not exercised. Therefore, extend the warehousing period till the time the application for re-export of

the impugned goods be considered by Id. Chief Commissioner.

5. As at this stage, we cannot decide the issue of re-export of the impugned goods, as the power is vested with the Id Chief Commissioner. Therefore,

in these circumstances we remand matter back to the Id. Chief Commissioner to decide the issue to re-export of the impugned goods and after

considering the other issues or other liabilities of the appellant for the impugned goods. The Id. Chief Commissioner shall decide the issue for re-export

of the impugned goods within a period of 30 days from the receipt of this order. The appellant shall also furnish the required documents to the ld. Chief

Commissioner within seven days from today.

The order be given dasti.

(Dictated & pronounced in open Court)