(2024) 02 CESTAT CK 0019

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Customs Appeal No. 77466 Of 2019

Mintu Pan APPELLANT

Vs

Commissioner Of Customs (Preventive) RESPONDENT

Date of Decision : 12-02-2024

Acts Referred:

Citation : (2024) 02 CESTAT CK 0019

Hon'ble Judges : K. Anpazhakan, Member (Technical)

Bench : Single Bench

Advocate : Atika Simran, S. Chatterjee

Judgement

K. Anpazhakan, Member (T)

1. The present appeal has been filed by the appellant against the confiscation of 5 gold biscuits weighting 830 grams seized from the possession of Shri Mintu Pan.

2. The adjudicating authority has issued the Order-in-Original dated 07/08.08.2018 wherein he ordered absolute confiscation of the 5 gold biscuits of foreign origin and imposed penalty of Rs.1,50,000/- on the appellant and the same were confirmed by the ld. Commissioner (Appeals) in the impugned order.

3. During the time of personal hearing, the Ld. Counsel appearing for the appellant submits that they have requested for producing the relied upon documents vide their letters dated 02.07.2018 and 19.07.2018, however, the relied upon documents have not been handed over to them till the Order-in-Original dated 07.08.2018 was passed; later, the relied upon documents have been handed over to them on 14.01.2019, which is noted by the ld. Commissioner (Appeals) as 11.01.2019.

3.1 Thus, I observe that the adjudicating authority has passed the decision before handing over the relied upon documents to the appellant.

4. The appellant also submits that the Show Cause Notice dated 12.03.2018 was received by them only on 17.03.2018, which is beyond the period of six months

from the date of seizure of the goods on 15.09.2017. However, the appellant has not produced any documentary evidence to substantiate their claim that the Show Cause Notice was received on 17.03.2018.

5. In the interests of justice, I am of the opinion that these preliminary objections raised by the appellant have to be examined by the adjudicating authority. Also, since the Order-in-Original was passed before formally handing over the relied upon documents to the appellant, it is necessary to remand the case back to the adjudicating authority to consider all the objections raised by the appellant and pass appropriate orders after perusing all the relevant documents.

6. In view of the above, I set aside the impugned order and remand the matter back to the adjudicating authority to consider all the preliminary objections raised by the appellant and peruse all the documents relevant for taking a decision and then pass appropriate orders within a period of four months from the date of receipt of this Order.

7. Accordingly, the impugned order is set aside and the matter is remanded back to the adjudicating authority.