(2021) 04 CESTAT CK 0030

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Customs Appeal No. 20481 Of 2020

Shri Lakshmi Dhall Mill — APPELLANT

Vs

Commissioner Of Customs Cochin — RESPONDENT

Date of Decision : 16-04-2021

Acts Referred:
Customs Act, 1962 — Section 111(d), 112

Citation : (2021) 04 CESTAT CK 0030

Hon'ble Judges : S.S. Garg, J

Bench : Single Bench

Advocate : P.A. Augustian, P. Gopakumar

Final Decision : Dismissed

Judgement

1. The present appeal is directed against the impugned order dated 18.02.2020/12.03.2020 passed by the Commissioner of Customs whereby the learned Commissioner has ordered for confiscation of goods and allowed the redemption on payment of fine of Rs. 7,00,000/- (Rupees Seven Lakhs only) and also imposed penalty of Rs. 3,00,000/- (Rupees Three Lakhs only) under Section 112 of the Customs Act, 1962. Briefly the facts of the present case are that the appellant is regularly importing food grains and cereals under IEC code No. 3599003891 by entering into a contract with overseas supplier M/s. Gold Power International, Myanmar for supply of 119.798 MT of Black Matpe FAQ Crop 2019 and the supplier issued invoice No. GPIL/19-20/118 dated 18.11.19 and for the purpose of clearance the appellant filed Bill of Entry No. 5841550 dated 27.11.19 along with all the connected documents.

2. The Ministry of Commerce & Industry (Department of Commerce) vide Notification No. O.S 1478(E) dated 29.03.19 imposed restriction for import of the said goods restricting the annual (fiscal year) quantity to 1.5 lakh MT and the same was informed to the trade and public through Trade Notice No. 52/2018-19 dated 01.04.2019 by DGFT. Since the import of the said goods was restricted and no valid license from DGFT was produced by the importer the said goods after

following the due process was ordered to be confiscated and was allowed to be redeemed subject to payment of fine of Rs. 7,00,000/- (Rupees Seven Lakhs only) under Section 125 of the Finance Act and penalty of Rs. 3,00,000/- (Rupees Three Lakhs only) under Section 112 of the Customs Act, 1962. The appellant has redeemed the goods after payment of redemption fine and penalty but has challenged the imposition of fine and penalty to be excessive and has prayed only for taking a lenient view with regard to the redemption fine and penalty imposed by the learned Commissioner.

3. I have considered the submissions of both the parties and perused the material on record. The only issue involved is whether the imposition of redemption fine of Rs. 7,00,000/- (Rupees Seven Lakhs only) under Section 125 of the Customs Act and penalty of Rs. 3,00,000/- (Rupees Three Lakhs only) under Section 112 of the Customs Act, 1962 is excessive or not? I find that undisputedly the import of the goods i.e. 'Black matpe FAQ crop 2019' classifiable under 0713 3110 is not free in terms of Foreign Trade Policy 2015-20. Vide FTP 2015-20, Chapter 7 of Schedule 1 of import policy, in respect of RITC 0713 3110, the goods are restricted and subjected to the conditions of annual quota of 1.5 lakh MTs as per procedure notified by DGFT. Further I find that in the present case the importer had admitted that he does not have a license from DGFT in respect of the restricted goods which means that the said goods have been imported by the appellant in contravention of Section 111(d) of the Customs Act, 1962 and hence liable for confiscation. Further I find that the goods being restricted cannot be imported without proper license issued by the DGFT and in the present case, the appellant did not possess the license and hence the goods were liable for confiscation and the Commissioner has rightly allowed the redemption subject to payment of fine of Rs. 7,00,000/- (Rupees Seven Lakhs only) under Section 125 and penalty of Rs. 3,00,000/- (Rupees Three Lakhs only) under Section 112 of the Customs Act, 1962. Since the declared value of the goods was Rs. 62,87,885.75 and hence the imposition of fine of Rs. 7,00,000/- (Rupees Seven Lakhs only) and penalty of Rs. 3,00,000/- (Rupees Three Lakhs only) in my opinion is not on the higher side and therefore, I do not find any reasons to interfere in the impugned order which is hereby upheld by dismissing the appeal of the appellant.

(Operative portion of the Order was pronounced in Open Court on 16/04/2021)

