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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 5417/2019

M/S MANVI EXIM PVT. LTD. ..... Petitioner

Through: Mr. Prem Ranjan and Ms. Sweta Ranjan, Advocates.

versus

THE ASSISTANT COMMISSIONER OF CUSTOMS, (IMPORT) ..... Respondent

Through: Ms. Sonu Bhatnagar, Ms. Anushree Narain and Ms. Venus Mehrotra, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **23.09.2019**

We have heard learned counsel for the parties and proceed to dispose of this petition with their consent.

The dispute lies in a narrow compass. The petitioner is seeking a direction to the respondent to comply with the Order in Appeal No. CC(A) CUS/DII/PREV/NCH/3996A and 3997/2018-19 dated 29.03.2019 passed by Ld. Commissioner of Custom (Appeals). The operative portion of the said order reads as follows:

"***ORDER***

8.1 I set aside the order of confiscation of one variety of the goods, namely "Mini Booster Pump", having declared value as Rs. 10,84,045,41 and order clearance for home consumption on payment of applicable duty on the declared assessable value, as applicable under the law.

8.2 I uphold the order of imposition of Redemption fine and penalties.

9. The appeal is partially allowed as per order held above and the impugned Order-in-Original No. DLI/CUSTOMS/PREV./AR/JC/59/2018-19 dated 01.06.2018 (C.NO. VIII/DLI/CUSTM/PRV./Adj./JC/Beta/ Manavi/26/2017) issued by the Joint Commissioner, Customs Preventive Commissionerate, New Custom House, New Delhi, is thus modified to the extent, mentioned above.

Both the appeals are disposed of accordingly."

The petitioner seeks a direction for release of the goods imported by the petitioner, namely, Mini Booster Pump – of which the declared value stated by the petitioner is Rs. 10,84,045.41/- for home consumption. The said goods have been seized vide memo dated 25.09.2017.

Learned counsel for the petitioner submits that thought the petitioner has preferred an appeal before the CESTAT, the petitioner is ready & willing to abide by the order dated 29.03.2019 passed by the learned Commissioner of Customs (Appeals), without prejudice to the rights & contentions of the petitioner so that the goods are cleared. He submits that the petitioner would pay the redemption fine and penalties as stated in paragraph 8.2 of the order dated 29.03.2019, without prejudice, at the time of clearance of the goods. He submits that the respondents have not assessed the duty payable on the said goods. From the counter-affidavit of the respondents, it appears that the respondents are insisting on the petitioner first depositing the redemption fine and penalties.

In our view, the respondents should assess the duty payable on the goods after examination of the consignment, and since the petitioner has expressed his willingness to deposit the redemption fine and penalties at the time of clearance, without prejudice to its rights and contentions, we see no impediment in the said assessment being undertaken by the respondents for clearance of the goods.

We, accordingly, dispose of this petition with a direction to the respondents to make a fresh assessment of the duty payable by the petitioner. Once the said assessment has been made, the petitioner shall pay the duty payable, if any; the redemption fine and the penalties. Once the same are paid, the goods of the petitioner shall be cleared.

We again make it clear that the payment of redemption fine and penalties is without prejudice to the rights and contentions of the petitioner. The assessment be completed by the respondents within two weeks of copy of the order being served on the concerned officer.

Dasti.

VIPIN SANGHI, J

SANJEEV NARULA, J

SEPTEMBER 23, 2019
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