IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.01.2020
CORAM:

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
and
THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

C.M.A.No.1220 of 2008

Commissioner of Customs,
Custom House, Chennai 600001 ... appellant

Vs

1.M/s.Madras Petrochem Ltd.,
Ponneri High Road,
Manali, Chennai 68

2.Customs Excise & Service Tax Appellate Tribunal,
South Zonal Branch,
Shastri Bhavan Annexe,
1st Floor, 26, Haddows Road,
Chennai 6 ... respondents

PRAYER: Civil Miscellaneous Appeal filed under Section customs Act, 1962, against the final order No.1233, 1234 of 2007 dated 4.10.2007 on the file of the CESTAT, South Zonal Branch, Chennai.

For appellant : Mr.P.Rajkumar Jhabakh
For respondents : Ms.Jayalakshmi
for Mr.Muthuvenkataraman

J U D G M E N T
(made by VINEET KOTHARI, J.)

The only limited point pressed by the learned counsel for the Appellant/Revenue before us in the present case is that the learned Tribunal in its impugned order dated 4.10.2007, has wrongly held in paragraph 6 of the order that the redemption fine cannot be imposed by the Revenue Authority under Section 125 of the Customs Act, 1962, if the goods in question have already been released in favour of the assessee on a bond.

2. This observation of the learned Tribunal, the learned Counsel submitted, is contrary to the Supreme court decision in the case of Weston Components Ltd. vs. Commissioner of Customs, New Delhi, 2000 (1) SCC 565.

3. The short order of the Hon'ble Supreme Court in the case of Weston Components Ltd. is quoted below for ready reference :-

> "It is contended by the learned counsel for the appellant that redemption fine could not be imposed because the goods were no loger in the custody of the respondent-authority. It is an admitted fact that the goods were released to the appellant on an application made by it and on the appellant executing a bond. Under these circumstances if subsequently it is found that the import was not valid or that there was any other irregularity which would entitle the customs authorities to confiscate the said goods, then the mere fact that the goods were released on the bond being executed would not take away the power of the customs authorities to levy redemption fine.
>
> The appeal is dismissed."

4. The impugned part of paragraph 6 of the order passed by the learned Tribunal is also quoted below for ready reference :-

> It is also on record that the goods were not physically available for confiscation. Redemption fine was not to be imposed in lieu of confiscation of any goods where the goods are not physically available to be redeemed. The cited case of Weston Components (supra) is distinguishable. In this view of the matter, we set aside the fine also. Appeal No.C/195/2003 stands partly allowed.

5. The other points are not pressed by the learned Counsel for the Appellant Revenue and the only limited point raised is as aforesaid. We find from the aforesaid observation of the learned Tribunal as quoted above that the learned Tribunal has erred in holding that the cited case of the Hon'ble Supreme court in the case of Weston Components, referred to above is distinguishable. This observation written by hand by the learned Members of the Tribunal, bearing their initials, appears to be made without giving any reasons and details. The said observation of the learned Tribunal, with great respect, is in conflict with the observation of the Hon'ble Supreme Court in the case of Weston Components.

6. Therefore, the said observation made by the learned Tribunal in paragraph 6 of the impugned order cannot be sustained and the same deserves to be set aside. However, such setting aside of the observation do not appear to be affecting the other points on which the relief was granted by the learned Tribunal in favour of the Assesee.

7. In view of the aforesaid, we dispose of the present appeal filed by the Revenue by deleting the afore-quoted observation of the learned Tribunal, being in conflict with the observation of the Hon'ble Supreme Court in the case of Weston Components Ltd.

8. With these observations, the appeal is disposed of. No costs.

Sd/-
Assistant Registrar(CS-III)

// True Copy//

Sub Assistant Registrar

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To

1. The Customs Excise & Service Tax Appellate Tribunal,
South Zonal Branch,
Shastri Bhavan Annexe,
1st Floor, 26, Haddows Road,
Chennai 6.

2. The Commissioner of Customs,
Customs House, Chennai 600 001.

Copy to: The Section Officer, V.R.Section,
High Court, Madras.

+1cc to Mr.P.Rajkumar Jhabakh , Advocate, SR.No.1449.

SSV(CO)
CSR: 06.02.2020