

CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL
SZB, CHENNAI

COURT : No. I

APPEAL No. C/40488/2022

(Arising out of Order-in-Appeal No. 22/2022 – TTN (CUS) dated 21.07.2022 passed by the Commissioner of Customs & Central Excise (Appeals), Coimbatore).

M/s. The Timberland,
No. 62, Athani Road,
Sathyamangalam-638 401.

Appellant

Vs.

The Commissioner of GST & CE (Appeals)
No.1 Williams Road, Contonment,
Tiruchirappalli- 620 001.

Respondent

APPEARANCE

FOR APPELLANT : Shri Manickam N, Ld. Advocate

FOR RESPONDENT : Ms. Sridevi Taritla, Addl. Commissioner,
Authorized Representative

CORAM

Hon'ble Shri P. Dinesha, Member (Judicial)

Date of Hearing: - **12.12.2022**

Date of Pronouncement: **20.12.2022**

FINAL ORDER No. 40376 /2022

This appeal is filed by the appellant against the impugned order-in-appeal passed by the Commissioner of GST & CE (Appeals), Coimbatore dated 21.07.2022. The appellants imported 94.93 CBM of Plantation Teak Logs from Malaysia but inadvertently did not claim BCD

exemption available for import of goods under CTH 4401 to 4410 from Malaysia, under Serial number 574 of Notification No. 53/2011-Cus. dated 01.07.2022. It is the case of the appellant that by mistake Serial number was mentioned as 577 and accordingly the system did not allow the exemption. Thereafter, the appellant filed a letter dated 14.06.2021 requesting for recalling of the Bill of Entry and for amending the same under Section 149 of the Customs Act, 1962, but however, the same was not acceded to by the concerned authorities. The Bill of Entry was thereafter assessed/finalized, the appellant preferred to file an appeal before the first appellate authority, but however, the first appellate authority also having rejected the appellant's appeal, the present appeal has been filed before this forum.

2. Heard Shri Manickan N, learned Advocate for the appellant and Ms. Sridevi Taritla, learned Addl. Commissioner for the Revenue.

3. Learned Advocate would contend, at the outset, that the appellant preferred the first appeal only with a view to get a remand order since there was no order by the lower authority on the amendment sought and nor was it rejected on merits. Further, he would submit that the impugned order has been passed without properly verifying the documents placed by the appellant and hence, according to the appellant, there was no scope for the first appellate authority to hold that the appellant did not submit the

Country of Origin Certificate, he would further submit that the Country of Origin Certificate is always uploaded in E-sanchit while filing the Bill of Entry as a supporting document and the same is also mentioned in IRN No. 2021060300055349 and IRN No. 202106040002146 which fact is reflected in the Bill of Entry itself. He would also seriously contend that during the course of personal hearing before the first appellate authority, the Commissioner (Appeals) never asked for the Country of Origin Certificate and hence, he would request for remanding the matter to enable the appellant to furnish the Country of Origin Certificate, once again to the satisfaction of the appellate authority, for passing an appropriate order.

4. Per contra, Ms. Sridevi Taritla, Addl. Commissioner contended that the Country of Origin Certificate was never filed before the first appellate authority and therefore prayed for sustaining the order of the lower authorities.

5. Heard both sides and perused the orders of both the lower authorities. In paragraph-7 of the impugned order, the first appellate authority has clearly recorded that the appellant did not submit the Country of Origin Certificate as prescribed, either during the assessment stage or appellate stage. Against this, the learned Consultant would contend that the Bill of Entry itself contains country of Origin as Malaysia, the same is also supported by the filing of "supporting document details" which mentions the details

like IRN Nos. etc., which only required a simple verification by the concerned authorities. But, however, without going into or looking into the Bill of Entry, the first appellate authority has given a wrong finding as to the non-filing of the Country of Origin Certificate. In view of the above, I am of the view that the impugned order has to be set aside but however, with a direction to the first appellate authority to pass a speaking order after considering the Bill of Entry and other supporting documents if any that may be filed by the appellant. Consequently, the impugned order is set aside and the matter is restored to the file of the first appellate authority, to pass a denova speaking order, in accordance with law, after affording reasonable opportunities to the appellant.

6. Appeal stands allowed by way of remand.

(Order pronounced in the Open Court on **20.12.2022**)

-sd/-

(P.DINESHA)
MEMBER (JUDICIAL)

BB