

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT No.-2

Customs Appeal No.1014 of 2012

(Arising out of Order-in-Appeal No.20/2012 dated 08/02/2012 passed by
Commissioner (Appeals) Customs, Cochin)

Commissioner of Customs, Cochin
Customs House, Cochin-9

.....Appellant

VERSUS

M/s Mirc Electronics Ltd.,
B-3/4, Nand Kishore,
Off. Mahakali Caves Road,
Andheri (E),
Mumbai-400093

....Respondent

APPEARANCE:

Mr. K.A. Jathin, Authorised Representative for the Appellant
Mrs. Radhika Shriranjini MD, Advocate for the Respondent

CORAM:

HON'BLE MR. P.A. AUGUSTIAN, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

FINAL ORDER NO.20909/2023

DATE OF HEARING : 10.08.2023
DATE OF DECISION : 05.09.2023

PER: P.A. AUGUSTIAN

The issue in the present appeal is regarding refund of 4% of Special Additional Duty (SAD) in terms of Notification No.102/2007-Cus dated 14.09.2007. The respondent had imported goods against the Bill of Entry No.227374 dated 14.07.2008 and goods were allowed to clear on payment of appropriate Customs duty and also on payment of Rs.49,842/- as 4% SAD refund. After sale of good, the respondent submitted a refund application on 06.07.2009 with the supporting documents. Alleging that the respondent failed to produce documents like Sale

Tax Authority certificate, certifying the VAT paid correlating with the Bill of Entry, summary of sales certified by the Chartered Accountant, hard copy of the sale invoices etc., deficiency memo was issued. There after, Adjudication Authority vide Order-In-Original No.159 of 2009 dated 16.10.2009 rejected the refund claim on the ground that the respondent failed to submit necessary documents. Aggrieved by the said order, respondent filed appeal before the first Appellate Authority. The Commissioner (Appeals) vide Order-In-Appeal No.20/2012 dated 17.02.2012 allowed the appeal. While disposing the appeal, the Commissioner (Appeals) observed that since statutory Auditor of the importer company furnished Certificates dated 26.06.2009 with details linking each of the sale invoices with the corresponding Bill of Entry, the respondent complied with the conditions of the notification. It is also observed that the amount collected as SAD has been entered in the final accounts for the year 2008-09. Aggrieved by the said order present appeal is filed by Revenue.

2. Learned D.R. appearing on behalf of the appellant submitted that the documents furnished by the respondent to claim the refund of SAD is not sufficient as per the Notification No.102/2007-Cus dated 14.09.2007 and Circular number 06 of 2008. Learned counsel for the respondent submitted that they have complied with the conditions imposed in the said notification since production of certificate from Chartered Engineer is only required and appellant cannot insist for any other documents.

3. Heard both the sides. As per the Order-In-Original, the respondent produced documents and when objection was made, the representative of the respondent appeared for personal hearing and produced VAT Challan and Chartered Accountant's Certificate. However, VAT Challan does not show the Bill of Entry and for that reason it is concluded that the respondent failed to comply with the conditions stipulated in the notification. In appeal, while allowing the appeal, the Appellate Authority has given a very detailed order. Even as per the statement of fact in the present

appeal, the appellant admits that the respondent had produced VAT Challans and Chartered Accountant Certificate. Only objection is that said VAT Challan could not be correlated with the imported goods as per the Bill of Entry. There is no requirement for mentioning Bill of Entry number in the Sale Tax/VAT Authority on the sale of goods and certificate of Chartered Accountant with details linking each of the sale invoices with the corresponding Bill of Entry alone is sufficient for said correlation. Thus we find no reason to interfere with the order passed by the Appellate Authority. Hence appeal is dismissed.

(Order pronounced in the Open Court on **05.09.2023**)

(P.A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

Nihal