



PRACTICE AREA UPDATE INDIRECT TAX

Substantive Export Benefits Cannot Be Denied for Procedural Lapses

The Hon'ble CESTAT, Bengaluru has allowed appeals filed by the Company and others, setting aside demands of customs duty, interest, confiscation, and penalties arising from alleged misuse of export promotion schemes.

The dispute pertained to imports made by the Appellant under the Duty Free Import Authorization (DFIA) and Advance Authorization (AA) schemes. The Department alleged that the Appellant had availed import benefits by submitting forged ISO certification and manipulated in-house test reports to indicate compliance with Standard Input Output Norms (SION). It was further alleged that the Appellant lacked adequate in-house testing facilities and, therefore, could not have submitted valid test reports.

It was submitted on behalf of the Appellant that Export obligations under all licenses had been duly fulfilled and certified through Export Obligation Discharge Certificates (EODCs) issued by DGFT, that there was no allegation of diversion of imported goods into the domestic market and that samples had in fact been drawn by authorities at the time of export, and the test reports did not reveal any deviation from required specifications/norms.

It was further submitted that ISO certification is not a substantive condition for availing the import benefits, but merely a procedural requirement for avoiding repeated testing.

The Department argued that the ISO certificate submitted by the Appellant was allegedly forged and backdated and that in-house test reports were fabricated, therefore, the Appellant failed to establish that the duty-free inputs imported by them were actually used in exported goods as per SION norms.



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The Hon'ble CESTAT distinguished between substantive compliance and procedural lapses by observing that the Appellant had fulfilled export obligations, and the EODCs issued by DGFT had attained finality without challenge. It was further observed that there was no evidence of diversion or misuse of imported inputs, which is an essential condition for denying the exemption benefits. Furthermore, the test reports from samples drawn by the authorities did not contain any adverse findings and hence, allegations of non-compliance with SION were not warranted.

Regarding the ISO certification, the Hon'ble Tribunal found that the same is not a mandatory requirement under DFIA/AA schemes and is only a relaxation of procedure. Even if the ISO certificate had discrepancies, the same would only be a procedural irregularity, which cannot be used to deny substantive benefits under the law. The Tribunal also relied on the settled position of law to find that SION are mere guidelines and cannot by themselves, establish any misuse.

The client was advised by the firm, led by a team of Partner Prashanth Shivadass, Associate Partner, Rishab J and Associate, Princess Preet. The arguments before the Hon'ble Tribunal were led by Senior Advocate, Mr. G. Shivadass.



G Shivadass



Prashanth Shivadass



Rishab J



Princes Preet