**No violation of procedure under Foreign Trade Policy if goods imported for personal use against Bill of Entry without having IEC**

The Hon'ble Customs, Excise & Services Tax Appellate Tribunal, Mumbai **("CESTAT")** in the matter of ***Mr. Subodh Menon v. Commissioner of Customs, ACC Mumbai [Final Order No. A/87045/2021 dated November 03, 2021]***, held that under the provisions of Customs Act, 1962 **("the Customs Act")** the order of confiscation with an option for redemption fine and penalty for importer not having Importer Exporter Code **("IEC")** number is invalid as there is no violation of procedure under Foreign Trade Policy if goods imported for personal use against Bill of Entry without having IEC.

Mr. Subodh Menon **("the Appellant")** filed the current appeal being aggrieved of the Order-in-Appeal dated October 30, 2018 passed by the Commissioner of Customs (Appeals). Legality of import without IEC is challenged in this appeal.

Factually, the Appellant imported Piano for his personal use through CHA M/s. H. Mangaldas & Co. with permanent IEC number as prescribed for individuals (persons). The department initiated proceedings against the Appellant as the said import was without an IEC number to which it responded by requesting a waiver of show-cause as the goods were not meant for sale in the market and imported for personal use. Matter was adjudicated upon that resulted in order of confiscation of imported goods under Section 111(d) of the Customs Act with an option for redemption of goods on payment of redemption fine of Rs. 2,00,000/- under Section 125 of the Customs Act and penalty of Rs. 1,00,000/- under Section 112(a) of the Customs Act on the Appellant. The said order of adjudication passed on dated January 20, 2016 by Additional Commissioner of Customs was challenged before the Commissioner of Customs (Appeals) who upheld the order but taking a lenient view reduced redemption fine to Rs. 1,50,000/- and penalty to Rs. 50,000/-.

The Hon'ble CESTAT, Mumbai held that the restriction may be in a way prohibition but the same is not an absolute prohibition as it is an admitted fact that the goods in question is covered under HSN No. 9804900 which is not freely importable but restricted subject to value limit of Rs.2000/- Cost, Insurance and Freight **("C.I.F.")** and other conditions as specified in Clause 3(1) of the Foreign Trade (Exemption from application of Rules in certain cases) order 1993, which Appellant had asserted all along before the adjudicating authority and the Commissioner (Appeals) but then even the goods were directed to be confiscated for violation of Section 7 of the Foreign Trade (Development & Regulation) Act, 1992 read with Foreign Trade Policy para 2.12 and 2.8 of 2009-2014.

Further, the CESTAT considered the case law cited by the Appellant namely ***Stephen M. Fernandes v. Commissioner of Customs & Central Excise, Goa [2018 (362) ELT 370 (Tri.-Mumbai)]*** in which it was said that there is no violation of procedure under Foreign Trade

Policy if goods imported for personal use against Bill of Entry without having IEC code. Therefore, CESTAT held that the order of confiscation with an option for redemption fine and penalty for importer/appellant not having IEC number is not sustainable in law. Hence the appeal is allowed.

*(Author can be reached at [info@a2ztaxcorp.com](mailto:info@a2ztaxcorp.com))*