

**Customs, Excise & Service Tax Appellate Tribunal,
West Zonal Bench : Ahmedabad**

REGIONAL BENCH - COURT NO. 3

Customs Appeal No. 11999 of 2019

[Arising out of Order No Notification Order-VIII-48-534-AMP-MISC-GR-I-18-19 dated 06.08.2019 passed by Principal Commissioner of Customs, Mundra]

Kesar Spices

116-1st Floor Madhukant-2 Complex Nr Hindi
High School, Bardolpura Madhupura
AHMEDABAD, GUJARAT-380004.

.... Appellant

VERSUS

Commissioner of Customs, Mundra

Custom House Mundra, Mundra
Kutch, Gujarat-370421

.... Respondent

APPEARANCE :

Shri Hardik Modh, Advocate for the Appellant
Shri K.J. Kinariwala, Assistant Commissioner (AR) for the Respondent

**CORAM: HON'BLE MR. RAMESH NAIR, MEMBER (JUDICIAL)
HON'BLE MR. RAJU, MEMBER (TECHNICAL)**

FINAL ORDER NO. A/11829 / 2019

DATE OF HEARING : 24.09.2019

DATE OF DECISION : 27.09.2019

RAMESH NAIR :

This is an appeal filed by the appellant against order-in-original whereby order of the Principal Commissioner, Customs House, Mundra was communicated by Assistant Commissioner, Import Section, Customs House, Mundra, according to which the order of provisional release of the imported goods was passed. Ld. Principal Commissioner put a condition to furnish bond of full value of seized goods and give a bank guarantee of Rs. 85 Lakhs. Being aggrieved by the condition for provisional release, the present appeal is filed by the appellant.

2. Shri Hardik Modh, Ld. Counsel appearing on behalf of the appellant submits that even as per the provisional release order, the bank guarantee was sought for Rs. 85 Lakhs whereas there was no other condition attached thereto. He submits that the appellant had deposited entire duty, interest and penalty which is amounting to Rs. 87,05,435/- which is more than the amount of bank guarantee sought by the department. Therefore, no further bank guarantee is required.

3. Shri K.J. Kinariwala, Ld. Assistant Commissioner (AR) appearing on behalf of the Revenue submits that even though the appellant deposited the entire duty amount, interest and penalty despite the fact that Principal Commissioner ordered for execution of bank guarantee for Rs. 85Lakh. He further submits that this Tribunal in the case of *Radha Trading vs. CC, Kandla* vide order No. A/11292-11299/2018 dated 02.07.2018 disposed the appeal on the identical issue of provisional release wherein bank guarantee to the tune of entire differential duty and 25% of the value of goods has been demanded.

4. We have heard both sides and perused the record. We observe from the impugned order that Ld. Principal Commissioner has directed to furnish bond of full value of the seized goods and bank guarantee of Rs. 85Lakh for provisional release covered under Bill of Entry No. 3997006 dated 09.07.2019. It appears that while passing the said order, the Principal Commissioner has not considered the amount of duty, interest and penalty of Rs. 87,05,435/- already deposited by the appellant. Therefore, the amount deposited by the appellant appears to be sufficient as security. However, on perusal of appellant's request for reconsideration of the condition for release of the goods vide letter dated 06.08.2019, we find that appellant themselves have proposed to give bank guarantee for 25% of the

bond amount on the ground that major amount of Rs. 87Lakh has already been paid. We also find it sufficient to safeguard the interests of the Revenue, if bank guarantee of 25% of the bond amount is furnished. Accordingly, we reduce the amount of bank guarantee from Rs. 85 Lakh to 25% value of the seized goods.

5. The impugned order stand modified to the above extent. Appeal is partly allowed.

(Order pronounced in the open court on 27.09.2019)

(Ramesh Nair)
Member (Judicial)

(Raju)
Member (Technical)