CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL AHMEDABAD

REGIONAL BENCH, COURT NO. 1

CUSTOMS APPEAL NO. 11965 OF 2015

[Arising out of OIO-KDL-COMMR-PVRR-14-2015-16 dated 20/10/2015 passed by Commissioner of CUSTOMS-KANDLA]

Anita Exports **....Appellant**
Plot No. 35/36, Sector-2, Kasez,
Gandhidham, Kutch, Gujarat

VERSUS

C.C.-Kandla **.....Respondent**
Custom House, Near Balaji Temple,
Kandla, Gujarat

Appearance:
Present for the Appellant : Shri S. Bissa, Advocate
Present for the Respondent: Shri Rajesh R Kurup, Superintendent (AR)

WITH

- **CUSTOMS APPEAL NO. 11966 of 2015 (Juned Yakub Nathani)**
- **CUSTOMS APPEAL NO. 11967 of 2015 (Jindal Fibers)**
- **CUSTOMS APPEAL NO. 11968 of 2015 (Sachin Jindal)**
- **CUSTOMS APPEAL NO. 11969 of 2015 (Safari Fine Clothing Pvt Ltd)**
- **CUSTOMS APPEAL NO. 11970 of 2015 (Manmohan Singh)**

[Arising out of OIO-KDL/COMMR/PVRR/14/2015-16 dated 20/10/2015 passed by Commissioner of CUSTOMS-KANDLA]

[Arising out of OIO-KDL/COMMR/PVRR/13/2015-16 dated 29/10/2015 passed by Commissioner of CUSTOMS-KANDLA]

[Arising out of OIO-KDL/COMMR/PVRR/13/2015-16 dated 29/10/2015 passed by Commissioner of CUSTOMS-KANDLA]

[Arising out of OIO-KDL/COMMR/PVRR/15/2015-16 dated 29/10/2015 passed by Commissioner of CUSTOMS-KANDLA]

[Arising out of OIO-KDL/COMMR/PVRR/15/2015-16 dated 29/10/2015 passed by Commissioner of CUSTOMS-KANDLA]

CORAM: HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)

Date of Hearing : 07.03.2024
Date of Decision : 07.03.2024

FINAL ORDER NO. 10661-10666/2024

SOMESH ARORA

The Ld. Advocate appearing for the parties pleads that he is not contesting the imposition of penalty *per se* but the quantum which as per his submission is too high as in the remand proceedings after the matter was remanded back by this tribunal, on examination only 2.6% goods were held capable of being used as goods. The nature of the goods was in the form of Jersies, leather jackets and wool jackets etc. It was his submission that only 2.6% of the consignment of impugned goods (rags), having been found not of declared description and malafides not being found, quantum of penalty imposed deserves to be reduced.

2. The Ld. AR on the other hand justifies the order, saying that the goods were to a certain extent found, to be in the nature of used apparels and therefore penalty has justifiably been imposed, the fact of 2.6% material being found usable only by the department indicates that there was mis-declaration, and violation of provisions of the customs law.

3. Considered. The request of the appellants for reduced and no separate penalties on partners/directors is worthy of consideration. Accordingly, same are reduced to M/s Anita Exports - Rs.50,000/-, Safari Fine Clothing Pvt Ltd – Rs.12,500/-, Jindal Fibers - 37,500/-. Since, the penalties have been

imposed on Firm/Company therefore in facts of the matter, separate penalty on Mr. Manmohan Singh, Sachin Jindal and Juned Yakub Nathani is being dispensed with.

3. Appeals are accordingly disposed of.

(Dictated and Pronounced in the open Court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Dharmi