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

REGIONAL BENCH-COURT NO. 3

Customs Appeal No. 10584 of 2021 - DB

(Arising out of OIA-AHD-CUSTM-000-APP-934-20-21 dated 24/03/2021 passed by Commissioner of CUSTOMS-AHMEDABAD)

ANAND TRADE LINK PVT LTD........Appellant
401 Span Trade Centre Opp Kochrab Ashram,
Paldi Char Rasta, Paldi, Ahmedabad
Ahmedabad, Gujarat

VERSUS

Commissioner of C.-AHMEDABAD......Respondent
Custom House,
Near All India Radio Navrangpura,
Ahmedabad,
Gujarat

APPEARANCE:

Shri K. J. Kinariwala Learned Consultant, Appeared for the Appellant
Shri P Ganesan, Superintendent (AR), Appeared for the Respondent

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

Final Order No. 11159/2024

DATE OF HEARING: 14.05.2024
DATE OF DECISION: 04.06.2024

RAMESH NAIR

The issue involved in the present case is that the whether the appellant in respect of imported goods that is HDPE falling under CTH 39012000 is not eligible for FTA exemption notification No.10/2008-Cus dated 15.01.2008 (N.T.) as amended. The case of the department is that the goods were supplied by M/s. Chevron Philips Singapore Chemicals (Private) Limited, Singapore. Therefore, condition of the value addition was not complied with hence they are not eligible for the benefit.

2. Shri K. J. Kinariwala Learned Consultant, appearing on behalf of the appellant submits that in the present case admittedly there was a value addition content was 42-45% and as per the condition, the value should be more than 40%. Hence, the condition is satisfied. Accordingly, the entire case is based on wrong perception that the value addition of the goods is not more than 40%. Therefore, on this basis, the impugned order is not sustainable. He relied upon the following judgements:

- M/s. Goldsmith Food products Final Order No. 10976/2024 dated 01.05.2024,
- M/s. Shreeji Plastopack India Final Order No. 10021/2024 dated 02.01.2024 in the Customs Appeal No. 10908 of 2021 before the CESTAT, Ahmedabad and
- M/s. Uniworth Textiles Ltd. 2013 (288) ELT 161 (SC)

3. Shri P Ganesan, learned Superintendent (AR) appearing on behalf of the respondent, reiterates the findings of the impugned order.

4. We have carefully considered the submission made by both the sides and perused the records. We find that the entire case of department is that the condition of value addition has not been fulfilled. Therefore, FTA notification No.10/2008-Cus dated 15.01.2008 (N.T.) is not eligible to the appellant for their imported goods i.e. HDPE falling under CTH 39012000. We find that now the learned counsel has shown that the value addition is ranging from 42-45%. Therefore, we are of the view that the matter should be reconsidered by considering all the material to be submitted by the appellant in support that the value addition condition has been satisfied as per their claim that on the value is more than 40%.

5. Accordingly, we set aside the impugned order and remand the matter to the Adjudicating Authority for passing a fresh order considering this vital aspect that whether there are proper evidence about value addition and the value addition is as per the provision of law that is more than 40%. Hence, the impugned order is set aside. The appeal is allowed by way of remand.

(Pronounced in the open court on 04.06.2024)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Bharvi