CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
AHMEDABAD
REGIONAL BENCH, COURT NO. 2

CUSTOMS APPEAL NO. 171 OF 2011

[Arising out of Order-in-Original/Appeal No 02-COMMR-2010-11 dated 04.02.2011 passed by Commissioner of CUSTOMS-JAMNAGAR(PREV)]

VINAY INDUSTRIES LTD **Appellant**
Dhoraji Road, Sukhpur,
Junagadh, Gujarat

Vs.

COMMISSIONER OF CUSTOMS-JAMNAGAR(PREV) **Respondent**
Sharda House...Bedi Bandar Road,
Opp. Panchavati,
Jamnagar, Gujarat

Appearance:
Present for the Appellant : S J Vyas, Advocate
Present for the Respondent: Shri A R Kanani, Superintendent (AR)

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

Date of Hearing/Decision : **21/08/2024**

FINAL ORDER NO. 11821/2024

SOMESH ARORA

In this matter, there was a violation found on the part of exporter, which as mentioned before this Court was in relation to item 'crude edible oil'. The export of which was prohibited earlier but became restricted on date of entering for export by imposing conditions that goods should be carried in 5 liter jar and should be branded.

2. The learned Advocate appearing for the appellant states that they had after entering the goods for export duly sought permission from the Adjudicating Commissioner to allow them to put brand name stickers on the goods which were available at the port, but same in his wisdom was considered as the violation and appellant subjected to imposition of RF of Rs.

10 lakh and Rs. 1 lakh as personal penalty. He permitted goods to be taken back to India on payment of RF and PP after passing of the adjudication order.

Learned Advocate is aggrieved that the export could not take place and violation happened simply because there was change of law in the recent past and they could not take cognizance of the new condition. They had no intent to do anything wrong and he made request to consider issue more liberally.

3. Learned AR supports the order by reiterating findings.

4. Considered. This Court is of the view that the goods violating the DGFT Notification were entered into the port, but through the adjudication process and subsequent action of imposition of RF and PP the goods were allowed to be taken back to India. This Court finds that the clearance sought in violation of condition is on record. But malicious intent is mitigated when they sought export of the goods by seeking pasting of stickers showing brands, as per the requirement of the law. The Adjudicating Authority however in its discretion has imposed RF and PP and allowed goods to be returned to India.

Considering over all circumstances and that the breach was not intentional, this court is of the view that RF of 10 lakhs is not sufficiently justified on record, same therefore is reduced to Rs. 2 lakhs and personal penalty of Rs. 1 lakhs reduced to Rs. 50,000/-. This court views that being a regular exporter, the exporter should have been more aware of changes in the law and acted diligently.

5. Order stands modified accordingly. Appeal is partly allowed.

(Dictated and pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

AD