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

REGIONAL BENCH-COURT NO. 3

Customs Appeal No. 13641 of 2014 – DB

[C/Misc./10542/2024]

(Arising out of OIO-20-13/LOUIS/DBK/12-13 dated 16/07/2014 passed by Commissioner of CUSTOMS-KANDLA)

Louis Dreyfus Commodities India Pvt Ltd **........Appellant**
Survey No. 310/2/b, Near Bhimasar Railway Station,
Village : Bhimasar, Taluka : Anjar,
Kutch, Gujarat

VERSUS

Commissioner of Customs –Kandla **......Respondent**
Custom House,
Near Balaji Temple,
Kandla, Gujarat

APPEARANCE:
Shri Vikas Mehta, Consultant for the Appellant
Shri Sanjay Kumar, Superintendent (AR) for the Respondent

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

Final Order No. 11828/2024

DATE OF HEARING: 03.06.2024
DATE OF DECISION: 27.08.2024

RAMESH NAIR

This appeal is directed against the order dated 16.07.2014 passed by Commissioner of Customs, Kandla whereby the request of the appellant for amendment in free shipping bill to drawback, the Learned Commissioner has rejected the application of the appellant on the ground that the application for amendment under Section 149 of Customs Act, 1962 was not filed within 3 months from the date of let export order and also on the ground that no declaration for the duty drawback claims were filed by the appellant at the material time. Being aggrieved by the said order of the Commissioner the appellant filed the present appeal.

2. Shri Vikas Mehta, Learned Consultant appearing on behalf of the Appellant submits that both the grounds, for which the application of the appellant was rejected, have been considered in this Tribunal's decision in the case of M/s. Eastman International vs. C.C. Mundra – 2024 (2) TMI 313 – CESTAT Ahmedabad and vide Board Circular No.36/2010- Cus dated 23.06.2010. Therefore, the rejection of the appellant's application under Section 149 for amendment in free shipping bill to drawback is illegal and incorrect.

2.1 He submits that the appellant claimed the duty drawback at All India Rate which is permissible as per Board Circular No. 36/2010-Cus dated 23.06.2010.

3. Shri Sanjay Kumar, Learned Superintendent (AR) appearing on behalf of the Revenue reiterates the finding of the impugned order.

4. We have carefully considered the submission made by both sides and perused the records. We find that the Learned Commissioner has rejected the application of the appellant under Section 149 of Customs Act, 1962 on the ground that the appellant have not filed the application within the stipulated time period of 3 months and also they have not filed the declaration. We find that as regard time limitation the issue is covered by this Tribunal's decision in the case of M/s. Eastman International vs. C.C. Mundra – 2024 (2) TMI 313 – CESTAT Ahmedabad. Accordingly, we are of the view that rejection of appellant's application on the ground of limitation is not correct.

4.1 As regard the other issue of filing declaration, since the appellant have claimed drawback at All India Rate which is as per Board Circular 36/2010-Cus dated 23.06.2010 is permissible, however, it is observed that learned Commissioner has not considered the Board Circular No. 36/2010-Cus. Therefore, only for the limited purpose of reconsideration, the matter in terms of Circular No. 36/2010-Cus needs to be remanded.

5. Accordingly, the impugned order is set aside and appeal is allowed by way of remand to the Learned Commissioner. MA stand dispose of.

(Pronounced in the open court on 27.08.2024)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Raksha