CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT AHMEDABAD

REGIONAL BENCH – COURT NO. 03

CUSTOM Appeal No. 57 of 2012

[Arising out of OIA-11/2012/CUS/COMMR-A-/KDL dated 16/02/2012 passed by Commissioner of CUSTOMS-KANDLA]

Pasupati Acrylon Ltd **.....Appellant**
M-14,
Connaught Circle,
NEW DELHI,

VERSUS

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

APPEARANCE:
Shri Manish Jain, Advocate for the Appellant
Shri. J A Patel, Superintendent (Authorized Representative) for the Respondent

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

FINAL ORDER NO.A / 10992 /2022

DATE OF HEARING: 04.08.2022
DATE OF DECISION: 04.08.2022

RAMESH NAIR

The issue involved is that whether the quantity of liquid import cargo should be taken on the basis of weight mentioned in the invoice or on the actual shore tank received weight for the purpose of assessment of custom.

2. Shri Manish Jain, Learned Counsel appearing on behalf of the appellant at the outset submits that the quantity was received in the present case on the basis of the Board Circular No.6/2006-Cus dated 12 January, 2006. According to which the quantity for assessment of liquid cargo should be taken as per the quantity mentioned in the invoice. He submits that subsequent to this Circular the Hon'ble Supreme Court passed a judgment in the case of M/s. Manglore Refinery & Petrochemicals Ltd Vs. C.C., Manglore 2015 323 ELT 433 (SC) wherein it was held that for liquid cargo the actual shore tank received quantity should be taken for assessment and not the invoice quantity. Subsequently the Board has withdrawn the circular No.6/2006-Cus dated 12.01.2006 vide circular 34/2016-Cus dated 26 July, 2016. According to which, it was clarified that in all liquid cargo imports the shore tank receipt quantity should be taken as the basis for levy of custom duty. Therefore, the issue is settled in favour of the assessee.

3. Shri J. A Patel, Learned AR appearing for revenue fairly concede that as per the Board Circular, the issue is settled.

4. We have carefully considered the submissions made by both the sides and perused the records. We find that the issue is no longer under dispute since not only the Hon'ble Supreme Court in the case of Manglore Refinery & Petrochemicals Ltd (Supra) decided that the quantity of liquid cargo should be taken on actual shore tank received basis and not on the basis of invoice and the same was accepted by the Board by withdrawing the earlier circular. Therefore, the issue is no more under dispute now.

5. Accordingly the impugned order is set aside, the appeal is allowed.

(Dictated & Pronounced in the open court)

RAMESH NAIR
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Palak