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

REGIONAL BENCH- COURT NO. 2

Customs Appeal No. 10021 of 2024
(Arising out of Order in original GEN-TEH-MISC-1411-2022-TECH-O-P-PR-COMMR-CUS-AHMEDABAD Dated-09/06/2022 passed by Commissioner (Appeals), Customs and Service Ahmedabad)

GULABDAS INTERNATIONAL TRADING LLP **.....Appellant**
3 C Benefies Business House,
126, Mathurdas Mill Compounds,
N.M. Joshi Marg, Lower Parel (West),
Mumbai-400013

VERSUS

COMMISSIONER OF CUSTOMS **.....Respondent**
CUSTOMS AHMEDABAD
Customs House, Near All India Radio,
Navrangpura, Ahmedabad-380009

APPEARANCE:
Shri. P.K. Shetty, Advocate for the Appellant
Shri. N.P. Makwana, Superintendent (AR) for the Respondent

CORAM: HON'BLE MEMBER (TECHNICAL), MR. C.L. MAHAR

Final Order No. 12476 /2024

DATE OF HEARING:17.10.2024
DATE OF DECISION:23.10.2024

C.L. MAHAR

The brief facts of the matter are that the appellant exported two consignments of Woven Fabrics vide Shipping Bill No. 7543868 and 7544395 both dated 29 December, 2020, it ICD, Ahmedabad claiming benefit under drawback and MEIS Scheme. At the time of filing of the shipping bills, the drawback and MEIS Schemes were applicable. The Let Export Order with regard to the above mention two shipping bills was granted by the Customs Officer on 01.10.2021. After the shipment, the appellant has received the drawback payment from the department, however, benefit under the MEIS Scheme was not granted to them. On the ground that the Let Export Order on the said shipping bills was given on 01.01.2021 when the scheme of MEIS was discontinued. The appellant has taken up the matter with directed

General of Foreign Trade and Customs Department. The DGFT Office has informed the appellant that they can approach the Customs authorities for amendment and conversion of shipping bills from "Drawback and MEIS Scheme" to "Drawback and RoDTEP Scheme", because MEIS Scheme was only applicable for the shipping bills where the LEO date was on or before 31 December, 2020.

2. The appellant has approached the Commissioner of Customs and requested for conversion of said shipping bills from "drawback and MEIS Scheme" to "Drawback and RoDTEP Scheme" to which the Deputy Commissioner of Customs replied vide their letter dated 09.06.2022 as follows:-

> *"In this regard, it is to inform that your request for conversion of the above mentioned shipping bill has been rejected by the commissioner as it is barred by time."*

2.1 The appellant have approached the Commissioner (Appeals) who vide his order dated 23.08.2023 rejected the appeal of the appellant saying that the case of appeal under F. No. S/49-212/CUS/AHD/22-23, the deelsion/ order is passed by the Commissioner, Customs, Ahmedabad. Therefore, the appeal against impugned letter-1 is not maintainable before this authority being beyond the jurisdiction of the Commissioner (Appeals) in terms of Section 128 of the Customs. Act, 1962.

3. After going through the process of condonation of delay etc., the matter is before me for consideration.

4. The learned Advocate submitted that the petition for conversion of shipping bills under Section 149 of the Customs Act, 1962 was rejected on the ground of the time bar, without mentioning any reason for the same. It has been contention of the learned advocate that the issue is covered by the

judgment of this Tribunal within it has been held that there is no time bar under Section 149 of the Customs Act, 1962 for conversion of the shipping bills from one scheme to the others. The learned advocate has relied upon the following decision in this regards:-

- Union of India V/a Mahalaxmi Rubtech Ltd -(2023) 6 Centax 154(SC)
- LYKIS Ltd V/s CCE Mundra-... Order No.A/10398/2020 Upheld by Gujrat High Court-2021(377) ELT646 (GuJ) ...Order dated 02.02.2021
- Nissan Exports V/s CC Mundra-Order No. A/12221/2023
- VRA Cotton Mills Pvt Ltd V/s CC Jamnagar (Prev) -2014 (309) ELT (T-Ahd)

4.1 Learned Advocate has submitted that since the order conveyed to them vide the letter dated 09.06.2022 is a non speaking order and therefore the matter need to be remanded back to the Commissioner for issuing a detailed speaking order.

5. I have also heard the departmental representative who has reiterated the finding of the Deputy Commissioner’s letter detailed.

6. Having heard both the sides. I find that the request for the conversion of the shipping bill from duty ‘Drawback and MEIS Scheme’ to ‘Duty Drawback in RODTEP Scheme’ was reject by the Commissioner same was and conveyed by the Deputy Commissioner of Customs vide his letter dated 09.06.2022, without giving any reasons. The letter dated 09.06.2022 becomes an non speaking order of the Commissioner rejecting the conversion of the shipping bills of the appellant as provided under Section 149 of the Customs Act, 1962.

7. I find that it will be appropriate to remand back the matter to the Commissioner of Customs for passing a speaking the order in this regard. I also direct him to consider the decisions of this Tribunal as mentioned by the

learned Advocate during the course of the hearing and as mentioned in the proceedings paragraphs while deciding the matter a fresh.

8. In view of the above, the appeal is allowed by way of remand.

(Pronounced in the open court on 23.10.2024)

(C.L. MAHAR)
MEMBER (TECHNICAL)

PRACHI