

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

REGIONAL BENCH-COURT NO.3

CUSTOMS Appeal No. 10581 of 2024-DB

(Arising out of Order in Original KND-CUSTM-000-COM-05-2024-25 dated 14.06.2024 passed by Commissioner of Customs -Kandla)

BREWS BARRON LLP

Phase-I, Plot No. 383, Sector 4 Kandla
Special Economic Zone, Kachchh-Gujarat-370201

VERSUS

.....Appellant

Commissioner of CUSTOMS - Kandla Customs

Office of the Commissioner of Customs,
Near Balaji Temple, Kandla

.....Respondent

WITH

CUSTOMS Appeal No. 10582 of 2024-DB

(Arising out of OIO-KND-CUSTM-000-COM-05-24-25 dated 14.06.2024 passed by Commissioner of Customs -Kandla)

SMT SUCHITA BHARATSINH NARAWAT

Partner of M/s Brews Barron LLP Phase-I,
Plot No. 383, Sector 4 Kandla Special Economic Zone,
Kachchh-Gujarat-370201

VERSUS

.....Appellant

Commissioner of Customs -Kandla

Office of the Commissioner of Customs,
Near Balaji Temple, Kandla

.....Respondent

AND

CUSTOMS Appeal No. 10583 of 2024-DB

(Arising out of OIO-KND-CUSTM-000-COM-05-24-25 dated 14.06.2024 passed by Commissioner of Customs -Kandla)

RAMESH KUMAR GOUR

Employee of M/s Brews Barron LLP Phase-I,
Plot No. 383, Sector 4 Kandla Special Economic Zone,
Kachchh-Gujarat-370201

VERSUS

.....Appellant

Commissioner of Customs -Kandla

Office of the Commissioner of Customs,
Near Balaji Temple, Kandla

.....Respondent

APPEARANCE:

Shri Vikas Mehta, Consultant appeared for the Appellant

Shri Girish Nair, Assistant Commissioner (AR)appeared for the Respondent

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

Final Order No.12931-12933/2024

DATE OF HEARING: 19.11.2024

DATE OF DECISION: 02.12.2024

RAMESH NAIR

M/s. Brew Barron LLP, Smt. Suchita Bharatsinh Narawat, and Shri Ramesh Kumar Goud have filed these Appeals against the impugned Order-in-original No. KND –CUSTM-000-COM-05-2024-25 dtd. 14.06.2024 passed by the Commissioner of Customs, Customs House, Kandla.

1.1 The brief facts of case are that the officers carried out physical verification of one container imported by the appellant and found that 412 cases of assorted liquor bottles in excess than the declared qty. of 917 cases in the packing list as well as Bill of Entry No. 1008329 dtd. 09.06.2022 filed by the Appellant with Customs Authority of KASEZ. The excess quantity alongwith declared quantity was placed under seizure on 29.06.2022. The officers also carried out search of the business premises of Appellant and found 2049 cases of foreign brand liquor, beer, etc. which included 729 cases of beer which had expired in January, 2022. The said goods were detained for want of stock position and statutory records. The officers also found 279 cases of foreign brand liquor, beer, water bottles, etc. in a ceiling made in the business premises and the same were placed under seizure. As per the revenue during the course of search of office cum warehouse premises of appellant, the officers found a computerized/typed sheet which appeared to contain details of extra remittance made by appellant to the tune of USD 12702/- over and above the value declared in the invoices in respect of aforesaid container for an amount of USD 29638.65. On this basis, it was alleged that 412, cases were deliberately imported in the aforesaid container.

1.2 During the search the officers also found one computerized/typed sheet with heading "without bill" and "with bill" sale of brand-wise items; that it appeared that 180 cases valued at USD 20310 were sold by Appellant without issuance of bills/invoices. Further, a handwritten paper/sheet containing brand wise items totaling 303 cases is also said to have been found. Officers recorded the statement of Smt. Suchita Bharatsingh Narawat, Partner of Appellant and Shri Ramesh Goud, employee and also other persons. On completion of investigation, the Appellants were issued show cause notice dtd. 17.06.2023 asking as to why :

(i) the 1329 cases of subject goods, having declared assessable valued at Rs. 69,03,683/- ---as detailed in Annexure –A should not be confiscated under Section 111(l) and 111(m) of the Customs Act, 1962 and 11 wooden pallets should not be confiscated under Section 119 of the Customs Act, 1962.

(ii) the 2328 cases of subject goods having assessable valued at Rs. 52,73,873/- ---as detailed in Annexure –B and Annexure –C (including 729 cases mentioned in Annexure –D) should not be confiscated under Section 111(m) of the Customs Act, 1962.

(iii) the 511+ 483 cases of subject-goods having assessable valued at Rs. 73,14,312/- (though not physically available) as detailed in Annexure –D should not be confiscated under Section 111(m) and 111(j) of the Customs Act, 1962.

(iv) the classification of various kind/type of Liquor mentioned in Column II of Table –V (in para -27.11) adopted by them under Tariff items mentioned in Column III of Table –V respectively should not be rejected and the same should not be re-classified under appropriate CTH as mentioned in the Column IV of Table –V respectively.

(v) the customs duty amounting to Rs. 1,22,30,869/- chargeable on the said offended goods/cleared/sold in to the DTA (as shown in Annexure –D) should not be demanded and recovered under Section 28(4) of Customs Act, 1962 and the Customs Duty of Rs. 12,57,982/-

(vi) Interest at appropriate rate should not be demanded and recovered on the duty demanded.

(vii) penalty should not be imposed upon them under Section 112(a), 112(b), 114A, 114AA and 117 of the Customs Act, 1962.

(viii) the bond furnished by them against the consignments imported duty free under provisions of SEZ Act, 2005 and Rules framed thereunder but sold as such to the domestic market, should not be enforced and security, if any furnished with the bond, should not be encashed and appropriated towards their duty liabilities, interest thereon, fine and penalties.

1.3 In adjudication, the Ld. Adjudicating authority vide impugned order confirmed the demand along with interest and imposed penalties on the appellants. He also ordered for confiscation of goods. Aggrieved by the said order, the appellants have filed the present appeals.

2. Shri Vikas Mehta Ld. Consultant appearing on behalf of Appellants submits that the goods are not liable to confiscation on account. The entire KASEZ is under physical control of Customs and hence, any excess import is eventually accounted for in the record maintained by the unit before clearance into DTA or re-export in accordance with law.

2.1 He also submits that the author of the computerized/typed sheet cited by Ld. Adjudicating Authority is not identified. Similarly, there is no evidence gathered from any "angadiya" regarding any extraneous payment by cash. Even going by the sheet cited by Ld. Adjudicating Authority, the total cash amount, if at all paid by the appellant, comes to Rs. 36,500,00/- (and not Res. 9,65,372/-), which is far in excess than the amount claimed by department to represent value of excess goods found from container. Hence, no co-relation with goods is established.

2.2 He also submits that the appellant had made an application for amendment of bill of entry on 29.06.2022, i.e. before completion of examination by DRI. However, considering that KASEZ by itself is under physical control of Custom authorities, there was no scope of physical removal of any dutiable item into DTA. Hence, application made by the appellant for amendment in the bill of entry ought to have been allowed instead of passing orders for confiscation of goods and imposition of fine and penalty.

2.3 He argued that the Ld. Adjudicating Authority has also failed to give consideration to statement dated 29.08.2022 of Smt. Suchita Bharatsinh Narawat, Partner of appellant wherein she has stated that the overseas supplier had provided them one certificate dated 23.06.2022 regarding mistake in dispatching excess quantity. The reason advanced by Ld. Adjudicating Authority for not entertaining the application for amendment is filing of amendment after seizure and not based on findings that the certificate was obtained after seizure. Ld. Adjudicating Authority has erred to give due consideration to facts stated in para 20.3 to 20.7 of the show cause notice that the steps for carrying out amendment of bill of lading based on which amendment of IGM and then Bill of Entry can be sought, were initiated on 23.06.2022, i.e. much prior to examination of container by DRI on 28/29.06.2022.

2.4 He also submits that, seizure of 917 cases that were duly declared in the Bill of entry is not tenable in the above fact. He further submits that the Ld. Adjudicating Authority has ordered for confiscation of 2328 cases of goods valued at Rs. 52,73,873/- under Section 111 (m) of Customs Act, 1962 and has imposed redemption fine of Rs. 8,00,000/- in lieu of confiscation on the grounds that appellant had failed to explain the stock properly with documentary evidences. The findings are contrary to para 43 of impugned order. Appellant had provided stock summary and, on this basis, a shortage

in stock of 511 cases was reported by appellant that was agreed upon by the officers. Moreover, there is no allegation or findings to assert that these 2328 cases that were found from the premises of appellant did not correspond in respect of value or in any other material particular to any particular bill of entry or bills of entry filed by appellant till date so as to attract the provisions of Section 111 (m) of Customs Act, 1962. Hence, the impugned order for confiscation of 2328 cases of goods valued at Rs. 52,73,873/- is not tenable in the eyes of law and imposition of redemption fine of Rs. 8,00,000/- in lieu of confiscation is without any legal basis.

2.5 He also submits that the Ld. Adjudicating Authority has demanded duty amounting to Rs. 1,22,30,868.52 (as per details given in Annexure-D to the show cause notice) on 1720 cases of assorted items listed therein. Shortage admitted and duty amounting to Rs. 12,57,982/- paid by appellant. Duty is demanded on 729 cases of beer on the ground that the same was found expired when panchanama was prepared on 28/29.06.2022. According to Rule 37 (1) of Special Economic Zone Rules, 2006, the goods admitted to a Special Economic Zone shall be utilized, exported or disposed off in accordance with the Act and rules within the validity period of the Letter of Approval issued to the Unit. According to Rule 37 (2) of the said Rules, on failure to utilize or dispose off goods as provided, such goods shall be liable for payment of duty as if the goods have been removed to Domestic Tariff Area on the date of expiry of the said validity period under sub-rule (1). The appellant hereby says and submit that it is not the case of department that the validity period of the Letter of Approval issued to the appellant has expired. Hence, demand of duty on 729 cases of beer is not tenable in the eyes of law. Moreover, shelf life of these goods has already expired.

2.6 He also submits that Demand of duty on 180 cases appearing under remark under "Without Bill" on computerized/typed sheet is not tenable in the eyes of law. Author of this data is not identified and made available to appellant for cross-examination. Entry of such goods in KASEZ not established. No details of inward Bill of Entry/Container cited. Buyer of such goods not identified. Mode of transportation not identified. Evidence regarding details of payment in lieu of such goods not available on record. He placed reliance on the following judgments.:

- (i) Nidhi Auto Pvt. Ltd. v/s Commissioner of Central Excise, NOIDA-I-2019 (6) TMI 899 – CESTAT ALLAHABAD

- (ii) K. G. Constructions v/s Commissioner of Central Excise, Lucknow-2018 (10) TMI 1207 – CESTAT, ALLAHABAD
- (iii) Alladi Drilling Equipment Pvt. Ltd. v/s Commr. of C. Ex., Hyderabad -2010 (4) TMI 680 – CESTAT, BANGALORE
- (iv) Commr. of C. Ex., Coimbatore v/s Rajaguru Spinning Mills (P) Ltd.,-2009 (5) TMI 226 – CESTAT, CHENNAI
- (v) Commissioner of Central Excise, Raipur v/s Eureka Iron & Energy Pvt. Limited,- 2017 (4) TMI 151 – CESTAT, NEW DELHI.

2.7 He also argued that it is a settled law that duty cannot be demanded based on assumptions and presumptions. In this case, it is first assumed that goods were brought inside KASEZ and it is again assumed that such goods were removed from KASEZ in a clandestine manner. All this is without establishing existence of any such goods. Hence, no duty is payable on 729 cases of beer, 180 and 300 cases.

2.8 He also submits that for 511 cases, the appellant explained that the shortage was due to spillage and damage, etc. and paid up the duty amounting to Rs. 12,57,982/- involved in these 511 cases, as duly noted in para 19 of Show Cause Notice. Hence, the demand of duty in excess of Rs. 12,57,982/- (involved in 511 cases) is not tenable in the eyes of law.

2.9 He also submits that inasmuch as import of 180 & 300 is not even proved, confiscation of such non-existent goods and imposition of redemption fine is not tenable in the eyes of law.

2.10 He further submits that inasmuch as 511 cases of goods found short on which appellant paid duty are also not available, orders for confiscation of the same and imposition of redemption fine in lieu of confiscation is not tenable in the eyes of law. He placed reliance on the decisions of Larger Bench of Tribunal in the case of Shiv Kripa Ispat Pvt. Ltd., 2009 (235) ELT 623.

2.11 He also submits that the Ld. Adjudicating Authority has not pinpointed any declaration, statement or document which is false or incorrect in any material particular, that was knowingly or intentionally made, signed or used, or caused to be made, signed or used, by all 03 appellants in the transaction of any business for the purposes of Customs Act, 1962. Hence, imposition of penalty on the appellant as well as on co-appellants under Section 114AA of Customs Act, 1962 is without any basis.

2.12 He prayed to allow the appeals filed by all 03 appellant but for the demand of duty amounting to Rs. 12,57,982/- (already paid by appellant), interest payable thereon and reduced penalty @ 25% in accordance with Section 114A of Customs Act, 1962.

3. Shri Girish Nair , Learned Assistant Commissioner (AR) appearing on behalf of revenue reiterates the findings of impugned order. He placed reliance on the following decisions:-

(i) Commissioner of Central Excise & Customs Vs. Kay Bee Tex Spin Ltd. – 2017(349)ELT 451 (Guj.)

(ii) Weston Components Ltd. Vs. Commissioner of Customs – 2000(115)ELT 278 (SC).

(iii) Judgment of Hon'ble High Court, Mumbai in the case of Vinod M. Chitalia Vs. Union of India.

4. Heard both sides and perused the case records. We have also considered the submissions made by both the sides. We find that in respect of 1329 cases of foreign brand liquor the Ld. Commissioner held that Appellant had imported 1329 cases of foreign brand liquor, beer etc., in container No. WHLU2952855 covered under Bill of Lading No. JEAIXY00006 dtd. 20.06.2022 deliberately mis-declared the same as 917 cases in the IGM No. 2314820 dtd. 21.06.2022 and KASEZ Bill of entry No. 1008329 dtd. 09.06.2022 with a malafide intent to clear the excess quantity of concealed 412 cases into DTA to avoid payment of Customs duty and other duties/tax. The Ld. Commissioner also relied upon the computerized/typed sheet containing detail of payment to allege that the appellant had remitted cash amount representing the price of 412 cases that were found in excess from container WHLU 2952855. Learned adjudicating authority has found that the goods in question do not conform to the declarations made in the entry made under the Customs Act, i.e. the Bill of Entry and other documents and hence held the goods liable for confiscation under the Customs Act, 1962. We find that in the present matter facts on record is that as regard the subject import consignment covered under Bill of Lading dtd. 20.06.2022, IGM dtd. 21.06.2022 and KASEZ Bll of Entry dtd. 09.06.2022 Smt. Suchita Bharatsingh Narwat, partner of appellant firm during the investigation deposed that they had placed two orders 917 cases and 1329 cases to the overseas supplier M/s Mufasa General Trading LLC, UAE. She further deposed that they had made payment for first order of the qty. as 917 cases but due to mistake at the supplier's end, they (supplier) has

sent the consignment of 1329 cases with documents showing qty. as 917 cases. She further deposed that they had applied for amendment in the Bill of Entry, on 29.06.2022, proposing in the qty. from 917 cases to 1329 cases.

4.1 In view of all the above factors, we hold that this is not a case of intentional misdeclaration of goods but an unintentional on the part of the person filing the Bill of Entry. Further the Section 149 of the Customs Act, 1962 provides for the amendment in documents after their presentation. The amendment sought by the appellant in the facts of the present case is justified and if such amendment are not allowed, Section 149 would loose its relevance and would become infructuous and if such *bona fide* errors are not allowed to be amended, we really fail to understand as to what would be covered by the provisions of Section 149 of the Customs Act. Act provides for correction of such errors as may be seen from Section 149 of the Customs Act. It is on record that Appellant already had filed application for amendment in documents. We find that tribunal in the case of *Maersk India Ltd. v. CC, Sheva* - [2001 \(129\) E.L.T. 444](#) (Tri.-Mum.) wherein also penalty was imposed on the application made for amendment of IGM and this Tribunal held that there is no act or omission rendering the goods liable to confiscation under Section 111 of Customs Act, 1962 and consequently no penalty can be imposed. Similarly, in the case of *James Mackintosh & Co. Pvt. Ltd. v. CC, Mumbai* - [2004 \(166\) E.L.T. 88](#) (Tri.-Mumbai.), an identical situation concerning the amendment to IGM was considered and it was held that when an application for amendment in IGM is made, the goods are not liable to confiscation under Section 111(f) and 111(g) of the Customs Act and consequently no penalty is imposable. The same ratio was followed in *Laxmi Saw Mill v. CC, Tuticorin* - [2008 \(224\) E.L.T. 312](#) (Tri.-Chennai) and in *Seahawk Logistics Pvt. Ltd. v. CC (Import), Nhava Sheva* - [2009 \(247\) E.L.T. 527](#) (Tri.-Mumbai). In the present matter Since there was no fraudulent intention whatsoever and the appellant had made application for amendment to the Bill of Entry mentioning about the facts in its entirety, the said application for amendment should have been allowed by the proper officer in terms of the powers conferred on him. There was no warrant to hold the goods liable to confiscation and impose any penalty. In these circumstances, we find that the impugned orders are unsustainable in law.

4.2 We also find that the Ld. Commissioner also rely on the computer typed sheet and held that payment was made in cash. However, we find that there is no correlation of details mentioned in the said sheet with the goods imported

by the appellant, hence we do not agree with the finding of the Ld. Commissioner. It is a settled principle of law that in adjudication proceedings, the charge of clandestine removal has to be definitely established on the basis of preponderance of probabilities, but it cannot be merely on the basis of presumptions and assumptions. Tribunal in the case of *Kuber Tobacco Products Ltd. v. Commissioner of Central Excise, Delhi*, reported in [2013 \(290\) E.L.T. 545](#) (Tri.-Del.) has held that suspicion however grave cannot replace proof and that the Revenue is not relieved altogether of burden of producing some credible evidence in respect of the facts in issue. In the case in hand, admittedly the Revenue has not brought any tangible evidence to discharge its burden of proof.

4.3 In view of above when there is no evidence to establish that the appellant had prior knowledge of the excess import of goods and also when there is no evidence to establish any wrongful intent on the part of the appellant, further appellant had already filed application for amendment of Bill of Entry, then there is no justification for confiscation of the imported goods and imposition of penalty in this matter. In the result, the impugned order upholding confiscation of 1329 cases imported vide Bill of Entry dtd. 09.06.2022 and 11 wooden pallets is liable to be set aside and we do so.

4.4 We also find that in respect of 2328 cases, the case of the department is that during the search of warehouse/ store room of Appellant, 2049 cases of foreign brand liquor, beer etc., were found which included 729 cases of Beer which expired in January 2022. Further, during the course of search carried out at the warehouse, in the ceiling of the back side portion of the warehouse, 279 cases of foreign brand liquor, beer, water bottles etc, were found. It was alleged that as regard the 2328 cases (2049+ 279) of foreign brand liquor beer etc. the authorized representative of appellant could not provide the stock position and any statutory records. Revenue also contended that they did not explain the purpose of preparing sheets /pages having heading "WITHOUT BILL" and "W/BILL" thereby failed to provide proper documents and clarification with respect of the stock. The Ld. Adjudicating Authority has ordered confiscation of 2328 cases of goods valued at Rs. 52,73,873/- under Section 111 (m) of Customs Act, 1962 and has imposed redemption fine of Rs. 8,00,000/- in lieu of confiscation on the grounds that appellant had failed to explain the stock properly with documentary evidences. In this context we find that the finding of the Ld. Commissioner is itself contrary. In para 43 of impugned order it is admitted by the Ld. Commissioner that on the basis of

verification of stock summary provided by M/s BBLLP vis-à-vis the stock found physically available in their warehouse/storeroom during the panchanma dtd. 28/29.06.2022, shortage of 511 cases of branded liquor, beer beverages was noticed and on the aforesaid shortage appellant also admittedly paid the duty amounting to Rs. 12,57,982/-. We find that provisions of confiscation of disputed goods applies only when goods have been concealed and have not been declared and not the entire quantity of goods. In such circumstances impugned order for confiscation of total 2328 cases of goods valued at Rs. 52,73,873/- and imposition of redemption fine of Rs. 8,00,000/- in lieu of confiscation is legally not correct and we hereby set aside the same.

4.5 Further as regard the demand on said 511 cases found short we find that apart from the shortages, there is virtually no other evidence on record to reflect upon the clandestine activities of the appellant. As per the settled law such shortages, by themselves, cannot lead to the fact of clandestine removals so as to justify confirmation of demands. Reference can be made to the Hon'ble Allahabad High Court decision in the case of *Minakshi Castings* reported in 2011 (274) E.L.T. 180 (All.) as also the Hon'ble Punjab & Haryana High Court in the case of *CCE, Ludhiana v. Nexo Products (India)* reported in 2015 (325) E.L.T. 106 (P & H) and to another decision of the Hon'ble Punjab & Haryana High Court in the case of *C.C.E. & S.T., Ludhiana v. Anand Founders & Engineers* reported as 2016 (331) E.L.T. 340 (P & H). It has been held in the above decisions that the clandestine removal charges based on shortages in stock cannot be upheld in the absence of any other evidence brought on record by the Revenue showing such illegal activities on the part of an assessee. The said decisions stand followed by the Tribunal in many numbers of cases. Inasmuch as in the present case the entire case of the Revenue is based upon the shortages detected at the time of visit of the officers, without there being any other evidence, we find no reasons to uphold the demand.

4.6 We also find that as regard the shortage of 511+483 cases as allegedly cleared without bill it was contended by the Ld. Commissioner that printout of computerized /typed sheet containing heading 'Without Bill' and 'With Bill', under heading 'without bill' total 180 cases was mentioned. Further a handwritten paper/sheet containing heading 'W/BILL' and that of under heading 'BILL' at its back side was found. Under the heading 'W'/BILL, total 303 cases of subject goods was mentioned. On the basis of said details Ld. Commissioner concluded that appellant has cleared the goods without issuance of invoices/ bill and without payment of duty. In this context we find

that during the investigation, on being asked who had prepared these two pages/ sheet and under whose directions, Smt. Suchita Bharatsingh Narawat stated that she was not aware who had prepared these sheets/pages and under whose directions. On being specifically asked whether the goods mentioned in these pages under heading 'WITHOUT BILL' and 'W/BILL' were cleared from their warehouse without issuance of Bills and is so, who were the buyers of such goods cleared without issuance of bills, she denied to have cleared any goods without issuance of bill from their warehouse. It is evident that nowhere it is admitted by the partner of appellant that the said details related to removal of goods. Further, the said loose documents which were recovered were not put to test for ascertaining to the authorship of these documents. Moreover, these documents could not be proved with the corroborative evidences. The investigating authority failed to find out the author of said disputed documents. The details contained on the loose sheets are actually not comprehensible and, therefore, cannot be accepted as admissible piece of evidence. Moreover, none of the persons on whose statement reliance was placed by the department were admitted that the details mentioned in the said sheet are true. In *C.C.E. v. Kuber Tobacco Product Ltd.* [2016 (339) E.L.T. A-130] the Hon'ble Delhi High Court has held that without any corroborative evidence, loose papers, documents cannot be sufficient to prove charges of clandestine removal. It is well settled that the allegation of clandestine removal is required to be discharged by the revenue by production of positive evidence. In the absence of the same such allegation cannot be upheld on the basis of assumptions and presumptions. The said legal principle does not require the support of any decision. In such circumstance we find no justifiable reasons to uphold the impugned order.

4.7 We also find that in the present matter Ld. Commissioner also held that the 729 cases of Beer imported without payment of duty and found expired during the Panchnama dtd. 28/29.06.2022, Appellant are liable to pay applicable Custom Duty on theses 729 cases so imported without payment of duty. In this context we agree with the argument of Ld. Consultant that according to Rule 37 (1) of Special Economic Zone Rules, 2006, the goods admitted to a Special Economic Zone shall be utilized, exported or disposed off in accordance with the Act and rules within the validity period of the Letter of Approval issued to the Unit. Further, according to Rule 37 (2) of the said Rules, on failure to utilize or dispose off goods as provided, such goods shall be liable for payment of duty as if the goods have been removed to Domestic Tariff Area on the date of expiry of the said validity period under sub-rule (1).

In the present matter there is no case of the department that the validity period of the Letter of Approval issued to the appellant has expired. Hence, demand of duty on 729 cases of beer is also not legally sustainable.

5. In view of above, we set aside the duty demand, confiscation of goods & penalties imposed on the appellant firm and its partner and employee. Appeals are allowed in the above terms with consequential relief, if any, as per law.

(Pronounced in the open court on 02.12.2024)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)