

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

REGIONAL BENCH- COURT NO. 02

Customs Appeal No. 10150 of 2022

[Arising out of OIA-KDL-CUSTM-000-APP-011-21-22 dated 06/09/2021 passed by the Commissioner of CUSTOMS-AHMEDABAD]

SAGAR CHEMICALS

K-73/2 Gidc Industrial Estate Highway
Mehsana, Gujarat

.....Appellant

VERSUS

C.C.-KANDLA

Custom House, Near Balaji Temple,
Kandla, Gujarat

.....Respondent

APPEARANCE:

Shri.Vijay N Thakkar, Consultant for the Appellant
Ms. Sunita Menon, Superintendent (AR) for the Respondent

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

Final Order No. 11042/2025

DATE OF HEARING:12.11.2025
DATE OF DECISION:14.11.2025

SOMESH ARORA

In the instant case, appellant had brought the goods in their own name whereas the existing ITC policy at the relevant time required them to channelize the import through canalizing agencies like MMTC etc. The impugned goods were purchased by the MMTC only but were sold to the appellant on the High Sea who eventually by declaring himself as the importer in the documents cleared the goods and this was objectionable as per the department. Since, the imports would be conducted only through the canalizing Agency and that meant as per the definition of "importer" in Customs Act as the one who owns the goods or presented himself as an importer before the Customs authorities by filing Bills of Entry. Since MMTC was none of the above as at the time of importation, therefore department

was of the view that there was a violation of ITC policy condition and therefore penalties were imposed.

2. Learned Advocate seeks to rely on decision of Brightglow Ventures Vs. C.C-Mundra which in term seeks to rely on Marico Industries Limited Vs. Commissioner of Customs (EP) Mumbai-2007 (209) ELT 403 (Tri-Mumbai) as well as decision of Pooja Chemicals in Appal No C/10736/2020 of Final order No. A/10059-10062/2023 dated 16.01.2023.

3. Considered. It is clear that the Brightgolw Venture Vs. C.C-Mundra a definition of importer or importer were not considered also in Marico Industries Limited Vs. Commissioner of Customs (EP) Mumbai. In the decision of Marico Industries Limited relied in was based on letter and clarification written by Joint DGFT dated 28.12.2005 addressed to DGFT requesting for relaxation of policy provision as during the year 30.06.2005 as the clarity was not available, therefore, relaxation of policy during the year 30.06.2005 was required. The decision however had imposed penalty finally because of the violation of policy provisions. In Pooja Chemicals and others in Para 5.1 and 5.2, again the decision was concluded on the basis of letters of the Government of India, Ministry of Chemicals and Fertilizers that the import was in accordance with law. It was on the basis of fresh letter contained in that decision that the Pooja Chemicals decision was delivered. However, in the instant case, he does not coming out in the reasoning as to whether the case was found within the parameters of the decision of Pooja Chemicals and was the Marico Industries Limited both cited supra, or DGFT authorities or Ministry of Fertilizers had issued any clarification that imports in such manners were proper.

4. In view of the foregoing, the matter is being remanded to the Commissioner (Appeals) to see the position and arrive at the conclusion as to whether in view of applicable Exim Policy, the case Marico Industries

Limited is to be applied and some penalties imposed or the case was within the ambit of Pooja Chemicals on the basis of some clarification Chemical and Fertilizer Ministry coupled with relevant exim policy, the benefit can be provided accordingly. Matter is remanded in the above terms.

5. Appeal allowed by way of remand.

(Pronounced in the open court on 14.11.2025)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Prachi