CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
AHMEDABAD
REGIONAL BENCH, COURT NO. 2

Customs APPEAL NO. 10485 OF 2024

[Arising out of Order in Original No. AHM-CUSTM-000-PR-COMMR-01-24-25 dated 10/04/2024 passed by Principal Commissioner of Customs]

VITAL LABRATORIES PRIVATE LTD **Appellant**

Plot No. 1710 & A1-2208, GIDC,
Phase-III, Vapi-396195

Vs.

PRINCIPAL COMMISSIONER OF CUSTOMS – CGST & Central Excise Ahmedabad North **Respondent**

1st Floor Custom House,
Navrangpura, Ahmedabad, Gujarat-380009

<u>Appearance:</u>

Present for the Appellant: Dr. Sanjay Kalra, Advocate Present for the Respondent: Shri Girish Nair, Assistant Commissioner (AR)

CORAM:
HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)
HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER (TECHNICAL)

FINAL ORDER NO. <u>11045/2025</u>

Date of Hearing /Decision: 01/10/2025

<u>SOMESH ARORA</u>

In the instant case, one of the issues, inter alia is about whether exports were timely made by the appellant under Advance Authorization Scheme.

2. The learned Advocate pleading for the party states that they have already exported goods as per law and have also applied for issue of exports obligation discharge certificate (EODC) to the Ministry of Commerce and its Authorities which is still pending. He also mentions that if first and last date is not taken into account, the whole span of period is with in time and there can be no demand against them.

3. The learned AR reiterates the findings and states that the demand has been properly raised as the exports were not correlated with the imports. Also, no EODC has been produced by the appellant before the Adjudicating Authority.

4. We have gone through the rival submissions. First and foremost, we find that EODC certificate is an authentic proof that export obligation has been discharged as per Exim policy and the same if produced is binding even on the adjudicating authority. Attempts have been made by the appellant to get the EODC certificate issued by the Ministry but so far, no success has been achieved. The party also claims that export obligation has been fulfilled in the

time frame as provided for each advance authorization. Same should be properly examined and checked and if needed they can also file a compilation of its own calculation, as per law. We are therefore inclined to remand the matter to the Adjudicating authority for verification of fulfillment of export obligation and re-computation of duty, if any.

5. This court is increasingly coming across instances where EODC remains pending even after considerable delay and decisions are not taken either way by the Ministry of Commerce. Therefore, to expedite the process of issue of EODC, we request the Director General, Foreign Trade, Ministry of Commerce, New Delhi to evolve some SOP so that such matters do not languish even before the customs authorities for want of decision on their part. Copy of this order, be therefore, endorsed to DGFT for prescribing SOP for speeding up the process of issue of EODC and to ensure that the decisions are taken within a time bound manner so that the exporters are not put to inconvenience. The advocate for the appellant claims that at least 1,044 exports were actually carried out and the same were executed as per various evidences brought on record (exhibit from page No. 196 to 213 refer in this regard.

6. The party shall be free to adduce any evidence showing use of imported material in the manufacture of goods exported, through evidences like cost accountant certificate/cost audit report or any other documents indicating the extent to which exports were meeting the stipulated conditions of the advance authorization scheme.

7. Matter is remanded with the above directions.

(*Dictated & Pronounced in the open court*)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Raksha