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

REGIONAL BENCH-COURT NO.3

Customs Appeal No. 10224 of 2024

(Arising out of Order in Appeal KDL-CUSTM-000-APP-190-23-24 dated 23/02/2024 passed by the Commissioner of Customs (Appeals), -Ahmedabad)

INDIAN FARMERS FERTILISER COOPERATIVE LIMITED .....Appellant
KANDLA UNIT KANDLA KACHCH
KACHCHH, GUJARAT-370210

VERSUS

Commissioner of CUSTOMS - Kandla Customs ....Respondent
Office of the Commissioner of Customs,
Near Balaji Temple, Kandla, KACHCHH
GUJARAT-370210

With

Customs Appeal No. 10633 of 2024

(Arising out of Order in Appeal KDL-CUSTM-000-APP-12-24-25dated 31/07/2024 passed by the Commissioner of Customs (Appeals), -Ahmedabad)

INDIAN FARMERS FERTILISER CORPERATIVE LIMITED .....Appellant
KANDLA UNIT KANDLA KACHCH
KACHCHH, GUJARAT-370210

VERSUS

Commissioner of CUSTOMS - Kandla Customs ....Respondent
Office of the Commissioner of Customs,
Near Balaji Temple, Kandla, KACHCHH
GUJARAT-370210

APPEARANCE:
Shri Manish Jain for the Appellant
Shri Girish Nair, Assistant Commissioner (AR) for the Respondent

CORAM:
HON'BLE Dr. AJAYA KRISHNA VISHVESHA, MEMBER (JUDICIAL)
HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER (TECHNICAL)

Final Order No. 11051-11052/2025

DATE OF HEARING/ DECISION: 04.11.2025

SATENDRA VIKRAM SINGH

1. The matter was argued by the learned Advocate, who brought to the notice of this Tribunal two Addendums which changed the very basis of valuation of imported Ammonia in bulk from *FOB value at the Middle East* to *CFR valuation* at Kandla and/or Paradeep Port. He also drew our attention to the decision of Hon'ble Supreme Court in the case of **Chaudhary Ship Breakers** reported at **2010 (259) E.L.T. 161 (S.C.)**, wherein the issue pertained to reduction of price post

importation. Paragraphs 16, 17 and 18 of the said judgment are reproduced below:—

> *"**16.** Having regard to the afore-stated legal position, the controversy at hand narrows down to the question whether the transaction value of the vessel is to be price mentioned in the original MOA or the reduced price indicated in the addendum. We are of the opinion that in light of the statutory provisions, the factum of actual payment of the price in terms of the addendum cannot be ignored while determining the value of the vessel under Section 14 of the Act. We may, however, hasten to add that in such a situation the genuineness and the necessity of reduction in the price are required to be scrutinised very carefully.*
>
> ***17.** As afore-stated, in the instant case, the Tribunal has not examined the genuineness of the addendum, and has proceeded to reject the appeal of the appellant on the short ground that there was no provision for price variation in the original MOA. We may, however, add that the Commissioner (Appeals) did examine the cogency of the reasons for price reduction though he was not convinced to accept the same.*
>
> ***18.** For all these reasons, we are of the opinion that the Tribunal needs to examine the matter afresh. Accordingly, the appeal is allowed; the impugned order is set aside, and the matter is remitted back to the Tribunal for fresh consideration, particularly in relation to the genuineness of the addendum entered into between the appellant and the supplier on 8th December 1997."*

2. In the above said order, the matter was remitted to the Tribunal to decide the matter after examining the grounds for reduction of the price. In the case in hand, both sides agree that the matter of reduction of price after importation of goods need to be looked into from the point of view of genuineness and necessity of such an addendum to the MOA as per the above decision of Hon’ble Supreme Court.

3. Learned AR also brings to the notice of this Tribunal that the overseas supplier of Ammonia in this case, M/s. Kisan International Trading FZE is wholly owned subsidiary of the importer M/s. IFFCO. This fact has also not been brought to the knowledge of this Hon'ble Tribunal while filing the present appeals, which even ethically speaking, should have been done. The very act of not bringing this fact to the knowledge of the Commissioner (Appeals) as well as this Hon'ble Bench may be construed to be an attempt

to mis-represent the facts of the case and on that basis itself, the appeals need to be dismissed. Therefore, this Tribunal may also take this fact into account while remanding the matter to the Commissioner (Appeal) for fresh decision. The Bench therefore, remits the matter to the Commissioner (Appeal) for taking fresh decision in the light of the above facts to determine necessity and genuineness of the addendum to MOA changing the very basis of valuation of Ammonia and accordingly, pass the reasoned order.

4. Both sides are given liberty to submit evidence(s) before the Commissioner (Appeal) who shall then decide the matter a fresh.

(Dictated and pronounced in the open court)

(Dr. AJAYA KRISHNA VISHVESHA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

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