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

REGIONAL BENCH-COURT NO. 1

CUSTOMS APPEAL NO. 11040 OF 2021-SMC

(Arising out of OIA-MUN-CUSTM-000-APP-72-21-22 dated 30/06/2021 passed by Commissioner (Appeals), Customs-Ahmedabad)

SATYAM POLYPLAST ....**Appellant**
G1/41 VKI AREA EXTN BADHARNA
JAIPUR, RAJASTHAN

VERSUS

COMMISSIONER OF CUSTOMS-MUNDRA ......**Respondent**
Office of the Principal Commissionerate of Customs,
Port User Buld. Custom House Mundra, Mundra
Kutch, Gujarat- 370421

APPEARANCE:
Shri Subham Jaiswal, Advocate appeared for the Appellant
Shri Sarjeet Kumar, Superintendent (AR) appeared for the Respondent

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

FINAL ORDER NO. 10187/2026

DATE OF HEARING /DECISION: 12.03.2026

SATENDRA VIKRAM SINGH

Learned Advocate mentions that they had exported "Filler Master batches" vide shipping Bill No. 8849997 dated 7th April,2015 but since there was some quality issue, same were re-imported vide Bill of entry No. 6457921 dated 23rdAugust,2016. After reprocessing, the goods were re-exported by appellant in the month of September,2016. He mentions that the department has demanded duty of Rs.14,23,542/- on the ground that the appellant is not eligible to the benefit of Notification No. 158/1995-Cus dated 14.11.1995 claimed by the appellant in above Bill of Entry. It is the ground of the department that the appellant does not satisfy the conditions of above notification and therefore, exemption from duty vide above Notification on re-import of Filler master batches cannot be allowed to them. The charges made in the show cause notice dated 23.08.2019 were confirmed by the

Adjudicating authority and on an appeal made by the appellant, the said OIO was further upheld by the Commissioner (Appeals). The appellant has therefore, filed appeal before this Tribunal against the impugned order dated 30.06.2021.

2. During argument, learned Advocate draws attention of the bench towards circular No. 127/95-Cus dated 14.12.1995, para 3 of which mentions as under :-

> *"3. The main difference in the earlier notification 98/95-Customs dated 26.5.95 and the present notification 158/95-Customs is that the earlier notification provided for the cases in which the goods are re-imported for the purpose of repairs and re-export but the new notification has enlarged the scope of process to be carried out. It now covers not only repairs but the processes like reconditioning, reprocessing, dyeing, refining, remaking or similar process. It covers goods like dyes, chemicals, pharmaceuticals etc. which were earlier exported and required to be reimported for carrying out any one of the above-mentioned processes. Period of one year reduced to six months. This restriction would apply prospectively only & does not apply for imports already done."*

2.1 On the basis of this circular, Learned Advocate pleads that under the category of "repair", other processes such as re-making and re-processing have now been included and therefore, benefit of Notification No. 158/95 is allowable to them. He also mentions that the department has issued show cause notice in this case on 23.08.2019 which is beyond the normal period. As they did not suppress anything, extended period of limitation is not invocable in this case. He also mentions that Learned Appellate Authority decided this case during Covid period without following the principles of natural justice. Learned Advocate relies on the decision of the Tribunal in the case of Shasun Drugs Vs. Commissioner of Customs, Madras reported at 2000 (125) ELT 1009 (Tribunal), which held that as per dictionary meaning, the definition of the word "repair" would be removal of deficiencies or defects. Para 5 of the said decision is reproduced below:-

> ***"5.*** *We have carefully considered these submissions and records of the case. We find that the said exemption is in the nature of a general exemption because it has not specified therein that it is only application to goods of Chapter 84, 85 or Chapter 90 etc. which mainly deal with mechanical, electro-mechanical or electronics items i.e. hardwares. In the absence of any definition of the word 'repair' contained in the said notification, we find substantial force in the argument of Ld. Consultant that we should resort to the dictionary meaning of that word. We have considered the extracts of dictionary meaning noted above and find that the basic concept would be removal of deficiencies or defects. Since this deficiency or defect can also be contained in chemical compounds, therefore removal thereof would then be particularly covered by the said word 'repair'. This broad interpretation is necessarily to be afforded to the appellants in view of there being no definition available within the notification itself. It is well settled law now that where a notification is capable of two interpretations, the interpretation which is more favourable to the assessee/importer has to be adopted. Therefore, in view of this position, we find that the balance of convenience is to be given to the appellants on this respect. Under these circumstances, we hold that the re-import of chemicals for the purpose of improving their quality would be covered by this notification."*

3. At this stage, learned AR mentions that the appellant did not submit the required documents before the adjudicating authority which contention is refuted by the learned Advocate who states that documents and the email correspondences were shared with the Adjudicating authority as well as the Appellate Authority. He however, agrees for remanding the matter for fresh decision.

4. Heard both the sides. I am of the view that the principles of natural justice have not been followed in this case and the documents submitted by the appellant have not been considered by the lower authority including Justification for invocation of extended period. Therefore, it is a fit case to be remitted to the Commissioner (Appeals) to decide the matter afresh within a period of three months after considering all the submissions made by the appellant regarding eligibility of Notification No. 158/98-Cus in the light of Circular No. 127/95-Customs dated 14.12.1995 including issue of limitation. The appellant shall submit the relevant documents to the appellate authority within a period of 4 weeks.

5. The appeal is allowed by way of remand.

(*Dictated and pronounced in the open court)*

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Raksha