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

REGIONAL BENCH- COURT NO.1

Customs Appeal No. 10723 of 2023-SM

(Arising out of Order in Appeal AHD-CUSTM-000-APP-133-23-24 Dated 01/08/2023 passed by the Commissioner (Appeals) of Customs, Ahmedabad)

Advanced Medtech Solution Private Ltd **........Appellant**
P-21-22, 25-26 & 34-35, GIDC Manjusar,
Tal - Savli, Dist. Vadodara -391775

VERSUS

Commissioner of Customs- Ahmedabad **........Respondent**
Office of the Pr. Commissioner of Customs,
1st Floor, Custom House, Opposite Old High Court,
Navrangpura, Ahmadabad-380009, Gujarat

APPEARANCE:
Shri Amit Laddha, Advocate appeared for the Appellant
Shri Himanshu Nachane, Superintendent(AR) appeared for the Respondent

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

FINAL ORDER NO. 10230/2026

DATE OF HEARING/DECISION :27.03.2026

SOMESH ARORA

1. The appellant has claimed a refund of excess duty paid, to the extent of 5%, to which the Department has no serious objection, as the transaction itself is not in dispute. Upon examination of the records, it is found that the appellant had paid duty at the rate of 10%, whereas the applicable rate of duty under Notification No. 12/2012-Cus. dated 17.03.2012 and Notification No. 50/2017-Cus. dated 30.06.2017 was only 5%. However, for the purpose of sanctioning the refund, it is necessary to verify whether the incidence of such excess duty has been passed on to the customer. In this regard, the appellant has produced a certificate issued by CNK & Associates LLP, placed on pages 118 to 120 of the appeal paper book. Pages 118–119 contain the certificate, which are as under:

EXHIBIT :- G

118

CNK
& ASSOCIATES LLP
CHARTERED ACCOUNTANTS

To,
Advanced MedTech Solutions Private Limited
P-21-22, 25-26, 34-35,
GIDC Manjusar,
Tal-Savli,
Dist.- Vadodara - 391775

Sub: Certificate for refund of custom duty

This certificate is issued in accordance with the terms of your email dated 09th November, 2021.

The said email requires us to certify the refund of custom duty of Advanced MedTech Solutions Private Limited ("the company") in required format.

The accompanying annexure contains the details of refund of custom duty in required format.

The preparation of annexure mentioned above, and provision of the requisite information to us for the purpose of the certification is the responsibility of the management of the company having its registered office situated at P-21-22, 25-26, 34-35, GIDC Manjusar, Tal-Savli, Dist.- Vadodara - 391775 Gujarat, India., including the preparation and maintenance of all accounting and other relevant supporting records and documents. This responsibility includes the design, implementation and maintenance of internal control relevant to the preparation and presentation of this annexure and applying an appropriate basis of preparation and presentation.

The management of the company is also responsible for ensuring that the Company complies with other requirements of the Programme.

Our responsibility is to provide a certificate confirming the details of refund of custom duty in required format.

CNK & ASSOCIATES LLP
VADODARA
CHARTERED ACCOUNTANTS

VADODARA : The Nest, 3rd Floor, 16, Windward Business Park, Behind Emerald One Complex, In The Lane of Dr. Prashant Buch, Jetalpur Road, Vadodara - 390 007
• Tel: +91 265 234 3483, +91 265 235 4359 • Email: vadodara@cnkindia.com
MUMBAI - HO : 3rd Floor, Mistry Bhavan, Dinshaw Vachha Road, Churchgate, Mumbai 400 020, India. • Tel: +91 22 6623 0600
Website: www.cnkindia.com
MUMBAI | BENGALURU | CHENNAI | AHMEDABAD | GANDHINAGAR | DELHI | DUBAI | SHARJAH

119

We conducted our examination of the statement in accordance with the Guidance Note on Reports or Certificates for Special Purposes (revised 2016) issued by the Institute of Chartered Accountants of India (ICAI). The said Guidance Note requires that we comply with the ethical requirements of the Code of Ethics issued by ICAI.

We have complied with the relevant applicable requirements of the Standard on Quality Control (SQC) 1, Quality Control for Firms that perform Audits and Reviews of Historical Financial Information, and other assurance and Related Services Engagements issued by ICAI.

Based on our examination, as above, we hereby certify the details of refund of custom duty as mentioned in the enclosed annexure.

The certificate is addressed to the company and provided solely for the purpose of submission to Assistant Commissioner Customs, Air Cargo Complex, Ahmedabad along with other documents and should not be used by any other person or for any other purpose. Accordingly, we do not accept or assume any liability or any duty of care for any other purpose or to any other person to whom this certificate is shown or into whose hands it may come without our prior consent in writing.

For C N K & Associates LLP
Chartered Accountants
Firm's Registration No.: 101961W/W-100036

Alok Shah
Partner
Membership No.: 042005

Certificate No. : CNKBRD/335/2021-22
UDIN: 21042005AAAARK2116

Place: Vadodara
Date: 10th November, 2021

2. However, as part of the certificate, an annexure has also been produced at page 120, which is reproduced as under:

> *"Annexure*
>
> *This is to certify that the refund amounting to INR 14,74,970.85/- i.e. Fourteen Lakhs Seventy-Four Thousand Nine Hundred and Seventy Rupees and Eighty Five Paise only claimed by M/s Advanced MedTech Solutions Private Limited the incidence of tax as claimed by the applicant, has not been passed on to any other person. There is no unjust Enrichment. Further, the certificate has been issued only for the Refund of the excess duty paid based on data provided."*

3. The certificate does not indicate the nature of records examined, the statutory framework under which such verification was carried out, or whether the Chartered Accountant is independent or in any way related to the appellant. It also does not clarify whether all relevant records were duly verified before arriving at the conclusion, or whether the certification was based merely on the records furnished by the appellant.

4. In view of the foregoing deficiencies, the Commissioner (Appeals) was justified in rejecting the said certificate. Although the learned Advocate has relied upon decisions such as *Tirumala Bearings (P) Ltd. vs. CCE & Cus. (Appeals), Vishakhapatnam* [2016 (335) ELT 145 (Tri.-Bang.)] and *Andhra Organics Ltd. vs. CC & ST, Vishakhapatnam* [2018 (362) ELT 275 (Tri.-Hyd.)], these judgments clearly lay down that a Chartered Accountant's certificate can be accepted as evidence only when it is based on proper verification of books of accounts for the relevant period.

5. Accordingly, while a Chartered Accountant's certificate is an acceptable piece of evidence to establish whether the incidence of duty has been passed on or not, the same must be based on independent and thorough scrutiny of relevant records by the Chartered Accountant, and not merely on the basis of data provided by the appellant.

6. To cure the above defects, the appellant is afforded one more opportunity to produce a proper and comprehensive certificate before the Commissioner (Appeals), duly supported by verification of relevant records. The matter is, therefore, remanded to the Commissioner (Appeals) for this limited purpose. Upon submission of the requisite evidence, the Commissioner (Appeals) shall examine the same and pass a reasoned order within 30 days from the date of such submission.

7. The appeal is allowed by way of remand.

(Dictated and pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

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