CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
<u>BANGALORE</u>

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 20638 of 2016

(Arising out of Order-in-Appeal No. COC-CUSTOM-000-APP-297 to 298/2015-16 dated 30.11.2015 passed by the Commissioner of Customs (Appeals), Cochin.)

Anwar Metro Enterprises,
Kohinoor Building,
6/474A(1) Goods Shed Road,
Tirur,
Malappuram.

Appellant(s)

VERSUS

The Commissioner of Customs (Appeals),
Custom House,
Cochin.

Respondent(s)

With

Customs Appeal No. 21189 of 2016

(Arising out of Order-in-Appeal No. COC-CUSTOM-000-APP-297 to 298/2015-16 dated 30.11.2015 passed by the Commissioner of Customs (Appeals), Cochin.)

Joslin. T.A., Proprietor
M/s. Carmel Export and Import,
43/2599, Tagore Lane,
S.R.M. Road,
Cochin – 682 018.

Appellant(s)

VERSUS

The Commissioner of Customs (Appeals),
Custom House,
Cochin.

Respondent(s)

<u>APPEARANCE:</u>

Mr. M.S. Sajeev Kumar, Advocate for the Appellant

Mr. Maneesh Akhoury, Assistant Commissioner (AR) for the Respondent

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS R BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20043-20044 /2025

DATE OF HEARING: 08.01.2025
DATE OF DECISION: 08.01.2025

PER : DR. D.M. MISRA

These two appeals are filed against Order-in-Appeal No. COC-CUSTOM-000-APP-297 to 298/2015-16 dated 30.11.2015 passed by the Commissioner of Customs (Appeals), Cochin.

2. Briefly stated the facts of the case are that the appellant filed Bill of Entry No.3302152 dated 25.04.2011 for clearance of assorted consumer items imported from Dubai. On examination of the said cargo on first-check basis by the Customs on 15.05.2011 at Container Freight Station, Petta and subsequently on 02.08.2011 and 04.08.2011, certain discrepancies were noticed against the declaration filed in the respective Bill of Entry. In connection with three items viz. Johnson & Johnson Face Cream, Yardley Powder and Yardley Soap, allegation was made that there has been violation of Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007 and undervaluation of the value of the goods declared etc. Consequently, a show-cause notice was issued to the appellant on 24.01.2011 proposing action under various provisions of Customs Act, 1962 including enhancement of the declared value and proposal for confiscation of the goods and imposition of penalty. On adjudication, assessable value of the items were enhanced on the basis of contemporaneous imports of identical goods in terms of Rule 4 of the Customs Valuation Rules, 2007 and directed absolute confiscation of items viz. Yardley Powder and Yardley Soap; also penalty was imposed under various provisions of the Customs Act, 1962 on the appellants. Aggrieved by the said order, they preferred appeal before the learned Commissioner(Appeals) who in turn upheld the order of the adjudicating authority. Hence the present appeals.

3. At the outset, the learned advocate for the appellant assailing the impugned order has submitted that the appellant has challenged order of the adjudicating authority raising various grounds before the learned Commissioner(Appeals); however, the learned Commissioner(Appeals) without considering any of the grounds raised by the appellant, passed the impugned order which is unreasoned and cryptic; hence not sustainable in law. In support of his submissions, he has referred to the judgment of the Apex Court in the case of ***Assistant Commissioner of Commercial Tax Department Vs. Shukla Brothers*** [2011(22) STR 105 (SC)] and ***Jt. Commissioner of Income Tax, Surat Vs. Saheli Leasing & Industries Ltd***. [2010(253) ELT 753 (SC)]. He prayed that the matter may be remanded to the learned Commissioner(Appeals) to consider the grounds raised by them and pass a reasoned order.

4. Learned AR for the Revenue has reiterated the findings of the learned Commissioner(Appeals).

5. Heard both sides and perused the records.

6. We find that the learned Commissioner(Appeals) has simply upheld the order of the adjudicating authority observing that there are four issues involved for determination in the appeal filed against the adjudicating authority's order. Therefore, she has simply endorsed the findings of the adjudicating authority's order instead of recording reasons on the grounds raised by the appellant vis-à-vis finding by the adjudicating authority. Thus, the order seems to be unreasoned one and cryptic; hence cannot be sustained in view of the principles laid down by the Hon'ble Supreme Court in the case of ***Shukla Brothers*** (supra) and ***Saheli Leasing & Industries Ltd.*** (supra). Consequently, the impugned order is set aside and

the appeals are remanded to the learned Commissioner(Appeals) to pass a reasoned order taking note of the grounds of appeals raised by the appellants. All issues are kept open. Needless to mention a reasonable opportunity be allowed to the appellants. Appeals are allowed by way of remand. Since the matter is quite old, on the request of both sides, it is directed that the appeals should be decided within two months from the date of communication of this order.

(Operative part of this Order was pronounced in Open Court on conclusion of the hearing.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R BHAGYA DEVI)
MEMBER (TECHNICAL)

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