CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL BANGALORE

REGIONAL BENCH - COURT NO. 2

Customs Appeal No. 20532 of 2019

(Arising out of Order-in-Appeal No. COC-CUSTM-000-APP-108/2018-19 dated 19.03.2019 passed by the Commissioner of Customs (Appeals), Cochin.)

M/s. CII Guardian International Ltd.
Plot No. 16B, CSEZ,
Cochin, Kakkanad,
Kerala – 682 037. ……….**Appellant(s)**

Versus

Commissioner of Customs
Customs House,
Willingdon Island,
Cochin – 682 009. ……..**Respondent(s)**

WITH

Customs Appeal No. 20930 of 2019

(Arising out of Order-in-Original No. COC-CUSTOMS-000-COM-19/2019-20 dated 20.07.2019 passed by the Commissioner of Customs, Cochin.)

M/s. Kuruwa Enterprises
18/24, Thoppumpady,
Cochin – 682 005. ……….**Appellant(s)**

Versus

Commissioner of Customs
Customs House,
Willingdon Island,
Cochin – 682 009. ……..**Respondent(s)**

APPEARANCE:

Mr. M. Balagopal, Advocate for the Appellant.

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

CORAM:

HON'BLE MR. P.A. AUGUSTIAN, MEMBER (JUDICIAL)

Final Order No. 20459-20460 /2026

Date of Hearing: 19.01.2026

Date of Decision: 30.03.2026

PER: P.A. AUGUSTIAN

The issue in the present appeals is whether the application filed by the Appellants for amendment of the shipping bill can be allowed. In Appeal No. C/20532/2019, shipping bill dated 29.10.2015 to

31.03.2016 related to 123 exports are involved and in Appeal No. C/20930/2019, 3 shipping bills are involved.

2. In Appeal No. C/20532/2019, the Appellant M/s. CII Guardian International Ltd. had filed shipping bills for export of various spice products. All the goods exports covered under shipping bills were either under advance authorization scheme or draw back scheme. None of the shipping bills were free shipping bills. However inadvertently, in the shipping bills, the window against query with regard to intension of claiming MEIS benefit was mentioned as **No** instead of **Yes**. As a result, shipping bills were not electronically transmitted to DGFT portal for processing the MEIS script. Since Appellant could not claim their MEIS benefit due to non-transmission of shipping bill copies, Appellant requested the Respondent to allow amendment in the shipping bills to correcting the endorsement from **No** to **Yes** in the shipping bills. However the request was rejected and aggrieved by said order, an appeal was filed before this Tribunal. Thereafter this Tribunal as per Final Order No. 21016-21018/2019 dated 19.11.2019 held that:-

> *"7. After considering the submissions of both the parties and perusal of the material on record, I find that the Commissioner has failed to notice that the appellants have declared their intention to claim MEIS benefits in two cases out of three cases, the shipping bills which have been produced on record. The only lapse on the part of the appellant was that they have mentioned in the reward column as 'N' instead of 'Y', which is only a procedural defect. Further, I find that otherwise the appellant is entitled to claim MEIS benefit as per the export policy. Failure to mention Y in the reward column of the shipping bill for availing the benefit under MEIS scheme can be corrected by amending the shipping bill as held by the Hon'ble Madras High Court in the case of Pasha International cited supra. Further, I find that Hon'ble Delhi High Court in the case of Kedia (Agencies) Pvt. Ltd. (supra) has also allowed the amendment even in a situation where there was no declaration of intention whereas in the present case, the appellants have made the declaration on the front page of the shipping bills regarding their intention to claim the MEIS benefit except in the case of M/s. Kuruwa Enterprises. Further, I find that the other ports have allowed the amendment of shipping bill in identical situation. I also find that the issue in the present appeals are squarely covered by the decision of this Tribunal rendered in the case of M/s. N.C. John & Sons Pvt. Ltd. vs. Commissioner of Customs, Cochin vide Final Order No.20909/2019 dated 28.10.2019 and by the judgment of the Kerala High Court in the case of Mangalath Cashews & Ors. vs. Commissioner of Customs,*

Cochin. In view of my discussion above, I am of the considered view that rejection of request for amendment of shipping bills by the Commissioner is not sustainable in law and therefore, I set aside the impugned orders and direct the Custom Authorities to allow the amendment in the shipping bills as per the request of the appellants on production of certified copy of this order. Appeals are, accordingly, allowed".

3. Aggrieved by said order, an appeal was filed by the Department and the Hon'ble High Court of Kerala vide judgment dated 08.11.2022 in CUS. Appeal No. 12/2020 observed that this Tribunal did not consider each one of the conclusions recorded by the primary or Appellate authority but still reverse the order. An order reversing the order of primary or Appellate Authority must speak for itself and reason must be stated for reversing the finding recorded by the authorities and accordingly held that:-

"*7.1 Proviso to Section 149 of the Act restricts the discretion of the officer by spelling out that no amendment of a Bill of Entry etc., be authorized to be amended after the imported goods have been cleared for home consumption or deposited in a warehouse or the export goods have been exported except on the basis of documentary evidence which was in existence at the time the goods were cleared etc. Therefore, though the time limit is not a circumstance for outright rejection of an application still, the Officer or, for that matter, the Tribunal verifies the request for amendment on the prescription covered by the Proviso to Section 149 of the Act.*

We refrain from taking up further consideration on merits, as the order of remand, in view of our findings, is restricted. For the above reasons, we are satisfied that the order under appeal needs to be set aside and is set aside. The matter is remanded to the CESTAT for fresh consideration, preferably within six months from the date of receipt of a copy of the judgment".

4. Learned Counsel submits that during the period from 29.10.2015 to 30.03.2016, in Appeal No. C/20532/2019, appellant have exported 123 consignments of goods manufactured in the SEZ Unit by filing the Shipping Bills for export. As an incentive for the exports done and the foreign exchange earned, the appellant have claimed the export incentive under MEIS (Merchandise Export Incentive Scheme) against all the 123 Shipping Bills. The Regional Authority of DGFT had issued the MEIS scrips against all the 123 Shipping Bills after satisfying that the goods were exported and the proceeds were also repatriated. Later, the Customs Authorities in Cochin SEZ found that the appellant's

intention to claim the MEIS benefit was not declared in the impugned Shipping Bills and as such the same cannot be registered. Accordingly, the appellant vide letter dated 22.05.2017, requested the Development Commissioner for amendment of Shipping Bills, under the provisions of Section 149 of the Customs Act, 1962, so as to incorporate above declaration.

5. Similarly, in Appeal No. C/20930/2019, two shipping bills dated 28.07.2017 and one shipping bill dated 07.09.2017 were filed by wrongly mentioning the reward column as "N" instead of "Y". As the result, the shipping bills were not electronically transmitted to DGFT portal for processing the MEIS scrips. Since the appellant could not file their MEIS claim because of the non-transmission of SB copies, the appellant vide letter dated 02.04.2019 requested the Department to allow amendment of shipping bill by correcting the endorsement 'No' to 'Yes' in the shipping bills. However, the request was rejected vide impugned order dated 20.07.2019 and in appeal, it was allowed by this Tribunal vide Final Order No. 21016-21018/2019 dated 19.11.2019. Aggrieved by said order, department filed appeal before Hon'ble High Court as per the judgment dated 08.11.2022 in Customs Appeal No. 8/2020 and Hon'ble High Court remanded the matter for re-considering the issue.

6. Learned Counsel also draw our attention to the Circular relied by the Board and Section 149 of the Customs Act, 1962 enabling amendment of a document and submits that as per the above provision, amendment can be made any time even after clearance for home consumption. The only condition being that the documentary evidence which was in existence at the time of goods were cleared for home consumption, deposited in a warehouse or the export goods have been exported are available. The Act does not restrict any time limit for amendment of the Bill of Entry or shipping bill and same cannot be imposed by way of Circular. Learned Counsel also relied on the following decisions.

7. Learned Counsel further submits that Circular No. 6/2002 was issued in a normal case of export from DTA and not for the export from SEZ. In the case of C/20530/2019, the Appellant is a SEZ unit and it is

governed by the Special Economic Zone Act and Rules & Regulations made therein under. Further at the relevant time, there was no examination of cargo under whatsoever scheme was prescribed under Rule 46 of Special Economic Zone. Physical examination of the cargo exported from SEZ unit under MEIS scheme was incorporated only on 19.09.2018 vide Notification dated 19.09.2018. Learned Counsel further submits that in appellants case, the amendment is sought on the Bills of entries where documents such as Invoice, Customs Endorsed Shipping Bill, Let Export Order, Packing List etc. were in existence at the time when the goods were physically exported. It is an admitted fact that the goods are eligible for the MEIS benefit/incentive and hence, the MEIS scrips were issued by the competent authority. There were no norms of examination for the export of goods from SEZ during the relevant period. The Department has no dispute that the export goods are something other than the one declared in the Shipping Bills. They too have no case that the appellant has exported goods other than the one authorized under the Letter of Approval/Letter of Permission.

8. Learned Counsel further submits that the issue is no more res integra and while considering the very same issue in the matter of **M/s. Mangalath Cashews Vs. Commissioner of Customs, Cochin** Hon'ble High Court of Kerala vide judgment dated 13.11.2019 in Writ Petition (C) No. 27125 of 2019 (M) held that:-

> "6. In the cases before me, especially in (C)No.25339/2019, I find that while the exporter did not check the box concerned to read "Yes", in the column meant for the description of the goods be had clearly indicated his intention to avail the benefit of the Export Promotion Scheme. Under such circumstances, I am of the view that the denial of a claim for export benefit could not have been done in a mechanical manner merely because there was a technical lapse on the part of the exporter concerned in not checking a particular box in the web portal, more so when there was sufficient indication from the other details entered therein that pointed to the exporter's intention to claim the reward.
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> I therefore dispose these writ petitions with a direction to the respondents, including the additional 5" respondent in both the writ petitions, to consider the claim of the petitioners for export benefit. afresh, in the light of the observations in this

judgment, and to grant the export benefits, if on an overall consideration of the details furnished by the petitioner, the intention to claim the benefit of the MEIS Scheme was seen manifested at the time of export. The additional 5th respondent in both these writ petitions shall consider the claims of the petitioners, afresh, within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioners. To enable the additional 5th respondent to do so, and in view of the submission before me that the rate of export benefit is the same irrespective of the variety of cashew exported and that there is no dispute with regard to realization of export proceeds, the Customs Authorities shall issue the necessary No Objection Certificates in favour of the petitioners, within a period of one week from the date of receipt of a copy of this judgment".

9. The Learned Counsel further submits that the issue is also considered by the Hon'ble Supreme Court in the matter of **M/s. Shah Nanji Nagsi Exports Pvt Ltd. Vs. Union of India - 2025 (394) ELT 341 (SC).** Learned Counsel also relied following decisions:-

i. Commissioner of Customs (Port) Vs. Asian Tea and Exports Ltd. - 2025 (394) E.L.T. 562 (S.C.)

ii. Larsen and Toubro Ltd. v. Union of India -(2025) 150 GSTR - 400/2024 SCC ONLINE BOM 3565.

iii. Portescap India Pvt. Ltd. v. Union of India 2021 (376) E.L.T. 161 (Bom.)

iv. Technocraft Industries (India) Ltd. v. Union of India 2023 (384) E.L.T. 293 (Bom.)

10. Learned Authorized Representative (AR) reiterated the finding in the impugned order and submits that as per Section 129C (4) of the Customs Act, 1962, the present appeal fall under the jurisdiction of Division Bench. Hence requested to post appeal before the Division Bench. As regarding the issue on merit, Learned AR further submits that Section 149 was amended and though there was no time limit prescribed, it has been consistently held that it must be within reasonable time. The Learned AR relied on the judgment of the Hon'ble Supreme Court in the matter of **M/s Citadel Fine Pharmaceuticals (1989 (42) E.L.T 515).** Learned AR also draw our attention to the

Circular No.36/2010-Cus dated 23.09.2010 where three months limitation was prescribed at the relevant time for amendment of such shipping Bills and the limitation prescribed under the Notification No.21/2025-Cus CMT dated 03.04.2025.

11. Heard both sides and perused the records.

12. As regarding the objection of the Learned AR that the appeal has to be heard before Division Bench, I find that Appeal No. C/20532/2019 was filed in the year 2019 and since then, the appeal was posted on five days, thereafter appeal was considered by the Learned Single Member on 09.09.2019 and allowed the appeal vide Final Order No. 20719/2019. At no point of time, the Revenue has made any objection regarding hearing of the matter by the Single Bench. Further it was not a ground raised by the Revenue before the Hon'ble High Court while filing the appeal challenging the said order. Facts being so, I find no reason to post the matter before the Division Bench.

13. As regarding reliance of the Learned AR on the judgment of the Hon'ble Supreme Court in the matter of **Government of India Vs. M/s Citadel Fine Pharmaceuticals (1989 (42) E.L.T 515 (SC),** the Hon'ble Supreme Court has considered the issue regarding limitation and held that whenever a question regarding inordinate delay in issuance of notice of demand is raised, it would be open to assess to content that it is barred on the ground of delay and it will be for the relevant office to consider the question whether the facts and circumstance of the case, notice for demand of recovery was made within the reasonable period. No hard and fast rule can be laid down in this regard as the determination of question will depend upon the facts of each case.

14. As regarding the limitation prescribed under the Notification No.21/2025-Cus CMT dated 03.04.2025, I find that even as per said Notification, the application for conversion shall be filed by an exporter in writing within one year from the date of clearance of goods under Section 1 of Section 51 Section 69 of the Act or from the date of entry made under Section 84 of the Act as the cases may be. Further jurisdictional Commissioner is empowered to extend for further period of six months and jurisdictional Chief Commissioner of the Customs is

vested with the power to extend the time limit not exceeding further six months. Thus even if a request is made within two year and if the jurisdiction Commissioner or Chief Commissioner is satisfied with the reason given for the delay, they are empowered to amend such amendment even up to two year after the relevant date of export. In Appeal No. C/20532/2019, shipping bill dated 29.10.2015 to 31.03.2016 related to 123 exports are involved and the request for the amendment was made on 22.05.2017. Similarly in Appeal No. C/20930/2019, two shipping bills dated 28.07.2017 and one shipping bill dated 07.09.2017 are involved and request for amendment was made on 02.04.2019.

15. Further I find that as per the Circular No. 36/2010-Cus dated 23.09.2010, it is specifically stated that "the conversion may be permitted in accordance with provisions of Section 149 of the Customs Act, 1962 on a case to case basis merit provided Commissioner of Customs if satisfied, on the basis of documentary evidence which was in existence of the goods at the time of export that the goods were eligible for the export promotion schemes to which conversion has been requested". Further in the present cases, there is no allegation that the goods exported by the Appellants are not eligible for the benefit of the scheme. Even the Regional Authority of DGFT had issued the MEIS scrips against all the 123 Shipping Bills after satisfying that the goods were exported and the proceeds were also repatriated. Further I find that the Hon'ble Supreme Court in the matter of **M/s. Shah Nanji Nagsi Exports Pvt Ltd.** (supra) held that:-

> *"10. The principal question for consideration is whether an inadvertent error in the shipping bills, which was permitted to be corrected under Section 149 of the Customs Act, can defeat an exporter's claim under the MEIS?*
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> *11. This issue has received judicial consideration in a line of decisions of the Bombay High Court. In Portescap India Private Limited (supra), the Bombay High Court dealt with a similar situation where an exporter had inadvertently marked "N" (for No) instead of "Y" (for Yes) while filing shipping bills. The High Court held that such a mistake was purely procedural and, once corrected, could not extinguish substantive entitlement. The Court directed the authorities to process the claim, emphasising that the purpose of Chapter 3 of the FTP is to incentivise exports and that this object would be frustrated if inadvertent mistakes were*

treated as insurmountable. The ratio of Portescap (supra) is squarely applicable to the present case.

12. The principle was reiterated in Technocraft Industries (India) Limited v. Union of India [(2023) SCC OnLine Bom 280 = 2023 (384) E.L.T. 293 (Bom.) = (2023) 4 Centax 11 (Bom.)], where the Bombay High Court again considered denial of MEIS benefits despite the shipping bills having been corrected under Section 149. The High Court noted the hardship faced by exporters and directed the Customs and DGFT authorities to take appropriate steps to prevent recurrence of such disputes, observing that systemic rigidity cannot be allowed to defeat substantive rights. The facts of the present case furnish an illustration of the very mischief which Technocraft (supra) sought to remedy.

13. In Larsen and Toubro Limited v. Union of India [(2024) SCC OnLine Bom 3565 = (2025) 35 Centax 307 (Bom.)], the Bombay High Court dealt with a similar rejection of MEIS claims despite amendment under Section 149. The High Court deprecated the rejection, holding that technical or systemic constraints cannot override statutory entitlements. The High Court went to the extent of imposing costs upon the DGFT. While we do not consider it necessary to adopt that course, we find ourselves in respectful agreement with the principle enunciated that beneficial schemes must be construed liberally and that procedural lapses, once rectified, cannot be allowed to defeat substantive rights.

14. These decisions, read together, demonstrate a consistent judicial approach that distinguishes between procedural formalities and substantive entitlements. The scheme under Chapter 3 of the FTP is a beneficial one, intended to reward exporters. Once exports are genuine and fall within the notified category, inadvertent mistakes of procedure cannot be treated as fatal, especially where they are corrected under statutory authority. The rejection by the PRC, bereft of reasons and passed without hearing, falls foul of the principles of natural justice. The High Court's view that the appellant may proceed against the customs broker fails to address the statutory entitlement which accrues to the exporter under the scheme. Administrative technology must aid, not obstruct, the implementation of the law.

15. In light of the above discussion, the appeal deserves to be allowed. The judgment of the High Court dated 2-8-2021 is set aside. The rejection by the Policy Relaxation Committee is quashed. The respondents are directed to process the appellant's claim for MEIS benefit on the basis of the amended shipping bills and to pass appropriate orders in accordance with law within a period of twelve weeks from the date of this judgment.

16. While we refrain from imposing costs, we cannot but observe that the recurrence of such disputes, despite authoritative pronouncements in Portescap, Technocraft

> *Industries and Larsen and Toubro Limited, underscores the need for systemic correction. The Union of India, acting through the Directorate General of Foreign Trade and the Central Board of Indirect Taxes and Customs, must take appropriate measures, whether by issuing comprehensive instructions or by suitable technological adjustments, to ensure that genuine exporters are not driven to needless litigation on account of inadvertent procedural lapses which have been rectified in accordance with law.*
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> *17. The appeal is allowed in the above terms. There shall be no order as to costs".*

16. Thus, following the ratio of the judgment in the matter **M/s. Shah Nanji Nagsi Exports Pvt Ltd.** (supra) appeals are allowed with consequential relief, if any in accordance with law.

(Order pronounced in Open Court on 30.03.2026)

(P. A. AUGUSTIAN)
MEMBER (JUDICIAL)

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