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

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 20087 of 2020

(Arising out of Order-in-Appeal No. COC-CUSTM-000-APP-67/2019-20 dated 15/10/2019 passed by Commissioner of CUSTOMS, COCHIN(Appeal))

Arjuna Natural Extracts Ltd
Pb No 126 Bank Road
ALWAYE - 683101
KERALA

Appellant(s)

VERSUS

Commissioner of Customs Cochin-cus
CUSTOM HOUSE, WILLINGDON ISLAND
COCHIN - 682009
KERALA

Respondent(s)

<u>Appearance:</u>

Shri P.A.AUGUSTIAN, ADVOCATE
FAIZEL CHAMERS, PULLEPADY CROSS ROAD,
COCHIN-682018

For the Appellant

Shri Narendrababu P. Byahatti, Superintendent(AR)

For the Respondent

CORAM:
HON'BLE MR. S.S GARG, JUDICIAL MEMBER

<u>Final Order No. 20070 / 2021</u>

Date of Hearing: 12/03/2021
Date of Decision: 12/03/2021

Per : S.S GARG

The present appeal is directed against the impugned order dt. 15/10/2019 passed by the Commissioner of Customs(Appeals) whereby the

Commissioner(Appeals) has rejected the appeal and upheld the Order-in-Appeal.

2. Briefly the facts of the present case are that the appellant had imported 'Mustard Seed Bran Meal' under six Bills of Entry without payment of customs duty claiming exemption under Customs Notification No.96/2009-Cus dt. 11/09/2009 under Advance Authorisation No.1010058662 dt. 23/07/2014. The total duty foregone was Rs.10,73,099/-. As per the conditions of the said Notification, the appellant has to discharge export obligation within a period specified by the licensing authority and produce evidence of discharge of the export obligation to the satisfaction of the Assistant Commissioner of Customs. The export obligation period in the present case was over by 22.12.2015 but the importer failed to produce EODC and export related documents to the adjudicating authority. After due procedure, the adjudicating authority found that the appellant is liable to pay the duty foregone amounting to Rs.10,73,099/- along with applicable interest for not fulfilling the export obligation as per the conditions of the Customs Notification No.96/2009-Cus and the Bond executed by the appellant. Accordingly, the said duty demand of Rs.10,73,099/- was confirmed by the adjudicating authority. Aggrieved by the Order-in-Original, the appellant filed the appeal before the Commissioner(Appeals) who rejected the appeal. Hence the present appeal.

3. Heard both sides and perused the records.

4. The learned counsel for the appellant submitted that the impugned order is not sustainable in law as the same has been passed without appreciating the facts and the evidence on record. He further submitted that the appellant has fulfilled the export obligation within the export obligation period and submitted the relevant documents on 09/05/2017 except one test report from Spices Board to Joint Director General of Foreign Trade (JDGFT) for issuing redemption letter. But in the

mean time, the Department issued show-cause notice to the appellant demanding the duty foregone and the appellant requested the adjudicating authority to keep the proceedings in abeyance awaiting the redemption letter to be issued by the JDGFT but without waiting for the same, the adjudicating authority decided the matter and confirmed the demand. He further submitted that the appellant has produced the redemption letter issued by the JDGFT which is on record showing that the appellant has fulfilled the export obligation as required under the advance authorization issued by the JDGFT. He further submitted that after the submission of the redemption certificate issued by the JDGFT, there was no point in confirming the demand. Learned counsel also submitted the judgment of the Hon'ble High Court in his own case wherein the Hon'ble High Court has allowed the writ petition of the appellant on the ground that the appellant has complied with the export obligation that was required of him and if there is a delay on the part of the JDGFT to issue the discharge certificate, appellant should not be penalized for that.

5. On the other hand, the learned AR reiterated the findings of the impugned order.

6. After considering the submissions of both the parties and perusal of the material on record, I find that the appellant has fulfilled the export obligation and has submitted all the relevant documents to the JDGFT office within time but the redemption letter was issued by the JDGFT after inordinate delay and in the meantime, show-cause notice was issued and duty foregone was confirmed. Further I find that the appellant has produced the redemption letter on record which shows that the appellant has fulfilled the export obligation required under the advance authorization issued under customs Notification No.96/2009-Customs dt. 11/09/2009. Further I find that the Hon'ble High Court in the appellants own case has allowed the writ petition of the appellant on the same ground. In view of the fact that the redemption certificate has already been issued by the JDGFT which is on

record showing the fulfillment of the export obligation by the appellant, I hold that the impugned order is not sustainable in law and the same is set aside with consequential relief, if any.

(Operative portion of the Order was pronounced
in Open Court on **12/03/2021**)

(S.S GARG)
JUDICIAL MEMBER

Raja...