CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT NO. III

Customs Appeal No.41390 of 2019

(Arising out of Order-in-Appeal No.TUT - CUS – OOO – APP – 40 – 2019, dated 26.04.2019 passed by the Commissioner of GST & Central Excise (Appeals), Trichirapalli)

M/s. Arihant Groups **: Appellant**
No.8, 23rd Cross, Cubbonpet,
Bangalore – 560 002.

VERSUS

Commissioner of Customs, **: Respondent**
Customs House,
Tuticorin.

APPEARANCE:

Shri A.K. Jayaran, Advocate for the Appellant

Shri B. Balamurugan, Authorized Representative for the Respondent

CORAM:

HON'BLE SMT. SULEKHA BEEVI C.S, MEMBER (JUDICIAL)

FINAL ORDER NO. 41058 / 2019

DATE OF HEARING: 16.09.2019

DATE OF DECISION: 16.09.2019

Brief facts are that appellants filed bill of entry for importation of Arecanuts and declared the value as Rs.1,06,14,272/-. On verification, the department was of the view that the goods do not conform to Food Safety and Standards Act of India [FSSAI] standards. After due process of law, the original authority ordered confiscation of the goods, and directed to re-export the goods. He also imposed redemption fine of Rs.20 lakhs and penalty of Rs.10 lakhs. In appeal, the Commissioner (Appeals) upheld the findings of the adjudicating authority but, however, reduced the redemption fine to Rs.5 lakhs and penalty to Rs.2 lakhs. Hence this appeal.

2. On behalf of the appellant, the learned counsel Shri A.K. Jayaraj appeared and argued the matter. He submitted that the appellant is willing to re-export the goods and is challenging the redemption fine and penalty imposed. Since the goods are being re-exported, the redemption fine imposed is without basis. He relied upon the decision of the jurisdictional High Court in the case of *M/s. Sankar Pandi Vs Union of India* reported in *2002 (141) E.L.T.635 (Mad.)* was relied by him. The said decision was upheld by Supreme Court as reported in *2018 (360) E.L.T. A214 (S.C.)*. It is also argued by him the penalty imposed is on the higher side the appellant had no intention to violate any provisions of law.

3. The learned Authorised Representative for the Revenue Shri B. Balamurugan, AC (AR) reiterated the findings in the impugned order. He submitted that the appellants have imported goods violating the provisions of FSSAI regulations and, therefore, has been rightly confiscated by the department. The decision in the case of *Commissioner of Customs Vs M/s. Avenue Impex* reported in *2014 (306) E.L.T.69 (Mad.)*. It is argued by the learned authorised representative that the redemption fine and penalty imposed are correct and proper.

4. Heard both sides.

5. The appellant is contesting only the redemption fine and penalty imposed. It has been submitted by learned counsel for the appellant that the appellant is willing to re-export the goods. Taking note of this fact, I am of the view that the redemption fine imposed cannot sustain. I take support from the decision of the Hon'ble jurisdictional High Court in *M/s. Sankar Pandi* (supra), which has been upheld by the Hon'ble Apex Court reported in *2018 (360) E.L.T. A214 (S.C.)*. With regard to the penalty imposed, it is seen that the appellant has suffered huge container charges and the goods have been detained for nearly nine months. Since the goods have been ordered to be re-exported and also taking note of the fact that they are not prohibited goods, I am of the view that the penalty imposed is on the higher side. The same is reduced to Rs.25,000/-.

6. From the discussions made above, the impugned order is modified to the extent of setting aside the redemption fine and upholding the direction to re-export the goods. The penalty is reduced to Rs.25,000/- [Rupees Twenty Five Thousands only]. The appeal is partly allowed in the above terms.

(Dictated and pronounced in the open court)

(SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)

ksr
17-09-2019

	DRAFT			Remarks
	I	II	III	
Date of dictation	**16.09.2019**			
Draft Order - Date of typing	**16.09.2019**			
Fair Order Typing	**17.09.2019**			
Date of numbering and date of dispatch	**17.09.2019**			