## CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL CHENNAI

REGIONAL BENCH – COURT NO. IV

**Customs Appeal No.40437 of 2020-SM**

[arising out of Order-in-Appeal No.24/2020-TTN(CUS), dated 08.06.2020 passed by Commissioner of Customs & Central Excise (Appeals), Tiruchirapalli]

**M/s.G.T. Jayanthi Agrochem (India) Pvt. Ltd.,** **Appellant**
No.41, Silver Cascade Complex,
Strotten Muthiya Mudali Street,
Chennai – 600 079.

*VERSUS*

**Commissioner of Customs,** **Respondent**
No.1, Williams Road,
Cantonment, Tiruchirapalli – 620 001.

**APPEARANCE :**

Shri , Advocate for the Appellant
Shri , Authorized Representative for the Respondent

**CORAM : HON'BLE Ms. Sulekha Beevi C.S, MEMBER (JUDICIAL)**

Date of Hearing : 26.03.2021
Date of Decision : 26.03.2021

**FINAL ORDER No. 41447 / 2021**

Brief facts are that the appellant imported cloves from Sri Lanka, which was detained by Customs department for the reason that the goods did not conform to the FSSAI, 2006 and Rules and Regulations made there under. Original authority for re-export of the goods had imposed redemption fine of Rs.2 lakhs under section 125 of the Customs Act, 1962 and imposed penalty of Rs.50,000/- under section 112(a) of the Customs Act, 1962. Against this, the appellant filed appeal before the Commissioner (Appeals), who vide order impugned herein reduced the redemption fine from Rs.2 lakhs to Rs.1 lakh and the penalty was reduced from Rs.50,000/- to Rs.25,000/-. Aggrieved by such order, the appellant is now before the Tribunal.

2. The learned counsel Shri Abdul Nazeer appeared and argued for the appellant. He relied upon the decision in the case of M/s. Sankar Pandi *Vs Union of India* reported in *2002 (141) E.L.T.635 (Mad.)* to argue that when the goods were redeemed for the purpose of re-export and that the redemption fine imposed is illegal and requires to be set aside. With regard to the penalty, he submitted that the appellant has suffered huge financial loss due to the re-export of the goods and also huge demurrage charges. He, therefore, prayed that the penalty may be set aside.

3. The learned Authorised Representative Shri M. Jagan Babu supported the findings in the impugned order.

4. After hearing both sides, it is seen that the redemption fine is imposed only for the purpose of re-export of goods. In the case of *M/s. Sankar Pandi* (supra), the Hon'ble jurisdictional High Court has held that no redemption fine can be imposed when the goods are redeemed only for the purpose of re-export. The said decision has been upheld by the Hon'ble Supreme Court in the case of *M/s. Siemens Ltd. Vs Commissioner of Customs* reported in *1999 (113) E.L.T.776 (S.C.)*.

5. For these reasons, I hold that the imposition of redemption fine of Rs.1 lakh is unsustainable and requires to be set aside, which I hereby do.

6. The learned counsel has also argued to set aside the penalty. The penalty has been reduced by the Commissioner (Appeals) to Rs.25,000/-. Due to violation of the FSSAI Rules by the appellant for import of the goods, I am of the view that the penalty of Rs.25,000/- [Rupees Twenty Five Thousands only] is reasonable and I uphold the same.

7. The impugned order is modified to the extent of setting aside the redemption fine only. Appeal is partly allowed in the above terms with consequential reliefs, if any.

(Dictated and pronounced in open court)

**(Sulekha Beevi C.S.)**
**Member (Judicial)**

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