IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
SOUTH ZONAL BENCH, CHENNAI

C/229/2011

(Arising out of Order-in-Original No. 15468/2011 dated 29.3.2011 passed by the Commissioner of Customs (Seaport – Export), Chennai)

R.Sampath Appellant

Vs.

Commissioner of Customs, Chennai Respondent

Appearance

Shri M. Venkataraman, Advocate for the Appellant
Shri B. Balamurugan, AC (AR) for the Respondent

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing / Decision: **22.12.2017**

Final Order No. 43367/2017

Per Bench

The facts of the case are that the main appellant M/s.Zandra Trading Company sought to export the goods by declaring the same as industrial salt. The samples were drawn and sent for chemical examination. As per the report of M/s. Coromandel Fertilizers Ltd. Chennai, the same were found to be 'Murate of Potash' (MOP for short). The report was also

Customs, Excise & Service Tax Appellate Tribunal called for from the State Agricultural Department, which confirmed the goods to be MOP. Based upon the same, proceedings were initiated resulting in confiscation of goods and imposition of penalties. The allegation against the present appellant is that he had supplied fake invoices to M/s. Zandra Trading Company for monetary consideration without supplying any goods at the instance of Shri Stephan Rosario. It was alleged that he had abetted in fraudulent export of MOP which is a restricted item for export and thus liable for penalty under section 114 of the Customs Act, 1962. The original authority imposed a penalty of Rs. 2 lakhs. Aggrieved by the said imposition of penalty, the appellant is now before the Tribunal.

2. On behalf of the appellant ld. counsel Shri M. Venkataraman submitted that this Tribunal Vide Final Order No.440/2012 dated 2.5.2012, this Tribunal had set aside the impugned order and remanded the matter on the appeal filed by the main appellant M/s. Zandra Trading Company to decide the issue afresh after hearing the appellant in accordance with law. Hence, he submitted that the present appeal may also be remanded to the adjudicating authority.

3. Heard ld. AR Shri B. Balamurugan for Revenue.

4. After hearing both sides, we find that this Tribunal had set aside the impugned order and remanded vide Final Order referred above. Hence, we do not find proper to decide the

present appeal, as the main issue stands remanded to the adjudicating authority.

5. In the result, the impugned order is set aside and the appeal is allowed by way of remand to the adjudicating authority to decide the issue as per the final order referred above.

(Operative portion of the order was pronounced in open court)

(**Madhu Mohan Damodhar**)
Member (Technical)

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

Rex

प्रमाणित प्रति / CERTIFIED TRUE COPY
15/01/18
सहायक पंजीकार / Assistant Registrar
सीमा शुल्क, उत्पाद शुल्क एवं सेवा कर अपीलीय अधिकरण,
चेन्नई / CESTAT, CHENNAI - 600 006.