IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, CHENNAI
REGIONAL BENCH - COURT NO. – DB-3

Excise Appeal Nos. 42212/2013, 41567/2014, 41568/14, 41952/2017, 40913 to 40916/2017, 41001/2015, 41231/2015, 41848/2017, 41232/2015 41847/2017, 41569/2014 & 41951/2017

(Arising out of Order-in-Appeal No. 285/2013 dated 28.08.2013 and 22/2014 dated 25.02.2014 passed by the Commissioner of Customs, Central Excise & Service Tax (Appeals), Coimbatore).

1&2. M/s. The Bombay Burma Trading Corporation Ltd. **Appellant**
Anaimudi Tea Factory,
Mudis Post, Valparai,
Coimbatore – 642117,

Vs.

Commissioner of Customs, Central Excise and Service Tax (Appeals) Coimbatore, **Respondent**
6/7 A.T.D.Street,
Race Course Road,
Coimbatore – 641 018.

(Arising out of Order-in-Appeal Nos. 47/2014 dated 5.2.2014 Passed by the Commissioner of Customs, Central Excise and Service Tax (Appeals), Salem and OIA No. 76/2017 dated 29.03.2017 and 08/2017 dated 04.01.2017 passed by the Commissioner of Customs, Central Excise & Service Tax (Appeals), Coimbatore).

3 to 8 Dunsandle Tea Factory **Appellant**
Dunsandle Estate,
The Nilgiris
Nilgiris-643005.

Vs.

Commissioner of Customs, Central Excise and Service Tax (Appeals),
No.1, Foulks Compound,
Annai Medu,
Salem 636 001.

Commissioner of Customs, Central Excise and Service Tax, Coimbatore, **Respondent**
6/7 A.T.D.Street,
Race Course Road,
Coimbatore – 641 018.

(Arising out of Order-in-Appeal No. 7 to 8/2015 dated 02.01.2015, and 75/2017 dated 29.03.2017 passed by the Commissioner of Customs, Central Excise & Service Tax (Appeals), Coimbatore).

9 to 11 Mukkottumudi Tea Factory **Appellant**
Mudis Post, Valparai,
Coimbatore – 642117,

Vs.

Commissioner of Customs, Central Excise
and Service Tax, Coimbatore, **Respondent**
6/7 A.T.D. Street,
Race Course Road,
Coimbatore – 641 018.

(Arising out of Order-in-Appeal No. 7 to 8/2015 dated 02.01.2015 and 74/2017 dated 29.03.2017 passed by the Commissioner of Customs, Central Excise & Service Tax (Appeals), Coimbatore).

12 to 13 Anaimudi Tea Factory **Appellant**
Mudis Post, Valparai,
Coimbatore – 642117,

Vs.

Commissioner of Customs, Central Excise
and Service Tax, Coimbatore, **Respondent**
6/7 A.T.D.Street,
Race Course Road,
Coimbatore – 641 018.

(Arising out of Order-in-Appeal No. 47/2014 dated 05.02.2014 and 77/2017 dated 29.03.2017 passed by the Commissioner of Customs, Central Excise & Service Tax (Appeals), Coimbatore).

14 to 15. Terramia Tea Factory **Appellant**
M/s. BBTC, Udagamandalam
Kullacombai – 643 218.

Vs.

Commissioner of Customs, Central Excise
and Service Tax (Appeals) Coimbatore, **Respondent**
6/7 A.T.D.Street,
Race Course Road,
Coimbatore – 641 018.

Commissioner of Customs, Central Excise and
Service Tax (Appeals),
No.1, Foulks Compound,
Annai Medu,
Salem 636 001.

APPEARANCE:

Shri. K. Shankaranarayanan, Advocate, for the Appellant
Shri. Arul C. Durairaj, Supdt., (AR) for the Respondent

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)
Hon'ble Shri C. J. Mathew, Member (Technical)

Final Order No. **40133-40147 / 2020**

Date of Hearing: 06.02.2020
Date of Decision: 06.02.2020

Per: Sulekha Beevi

Brief facts are that the appellants are engaged in manufacture of Tea classifiable under Chapter Heading 0902 4040 of the Central Excise Tariff Act, 1985. Tea is exempt from payment of excise duty under Sl.No.2 of Notification No.11/2006 dt. 1.3.2006. However, cess under Tea Act, 1953 is levied and collected as duty of excise as per section 25 of the Tea Act, 1953. The appellants exported tea under bond under Rule 19 of the Central Excise Rules without payment of any duty. However, department took the view that even for export under bond, cess as applicable under Tea Act ibid, is payable by the appellants. Accordingly, show cause notices were issued demanding Tea cess with interest on the grounds that exemption from payment of cess is applicable only to 100% EOU. After due process of law, the original adjudicating authorities inter alia, confirmed the demand of Tea cess with interest as proposed in SCNs. In appeal, the Commissioner (Appeals) vide impugned orders upheld the orders of original authority and rejected the appeal. Hence appellants are now before this forum.

2. When the matter came up for hearing, on behalf of the appellant Learned Advocate Shri K. Shankaranarayanan submitted that in the assessee's own case the very same issue was analyzed by the Tribunal and disposed vide Final Order No. 42752-42758/2018 dated 02.22.2018.

3. Ld. AR, Shri Arul C. Durairaj, Supdt., appeared for the Revenue. He supported the findings in the impugned order.

4. On perusal of the Final Order relied by the Ld. Counsel for the appellants, it is seen that the Tribunal has extensively analyzed the very same issue as to whether the appellant is liable to pay Tea cess on the tea exported by them. The issue is decided in favour of the assessee and it is held that the appellant is not required to pay Tea cess on the tea exported by them. Following the decision of Tribunal in the above cited Final Order, we hold that the demand cannot sustain. The impugned orders are set aside. Appeals are allowed with consequential reliefs, if any.

(Operative part of the order pronounced in open court on 06.02.2020)

(**SULEKHA BEEVI C.S.**)
Member (Judicial)

(**C. J. MATHEW**)
Member (Technical)

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