IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL, CHENNAI

REGIONAL BENCH - COURT NO. – III

Customs Appeal No. 40360 of 2017

(Arising out of Order-in-Original No. 51570/2016 dated 23.11.2016 passed by the Commissioner of Customs, Chennai – II)

M/s. UPEC (India) Foods Pvt. Ltd. **Appellant**
No. 24/26, Kumarasamy Nagar
(Santosh Mahal Backside)
Villivakkam, Chennai – 600 049.

Vs.

Commissioner of Customs **Respondent**
Chennai II Commissionerate
Custom House, 60, Rajaji Salai
Chennai – 600 001.

APPEARANCE:

Shri Hari Radhakrishnan, Advocate for the Appellant
Shri M. Jagan Babu, AC (AR) for the Respondent

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)
Hon'ble Shri P. Anjani Kumar, Member (Technical)

Final Order No. **41355 / 2019**

Date of Hearing: 18.11.2019
Date of Decision: 18.11.2019

Per Ms. Sulekha Beevi C.S.

The appellant imported prawn feed manufactured by the parent company located in Vietnam. The prawn feed was in various grade and in crumble form. They claimed concessional rate of basic customs duty as provided under Notification No.12/2012-Cus. dated

17.3.2012.. The department was of the view that the concessional rate of duty is available to prawn feed, shrimp larvae feed and fish feed which is in pellet form only. Since the prawn feed imported by the appellant is in crumble form, the benefit of concessional rate of duty was denied to them. Aggrieved by such order, they have filed the present appeal.

2. Today, when the matter came up for hearing, ld. counsel Shri Hari Radhakrishnan appearing for the appellant submitted that a clarification was issued by the Board vide DOF No. 334/3/2019-TRU dated 5.7.2019 wherein it has been clarified that the concessional rate applies to prawn feed and shrimp larvae feed in all forms and fish feed in pellet form. It is also pointed out by him that the DRI vide order dated 16.9.2019 has taken note of this clarification and dropped the proceedings initiated against another assessee M/s. Aqua World Chennai.

3. The ld. AR Shri Jagan Babu appeared for the department.

4. Heard both sides.

5. The issue is denial of concessional rate of duty to the appellant alleging that prawn feed imported by them is not in pellet form. The board has issued clarification which reads as under:-

> *"Vide Entry at sl. No. 119 in Notification No. 50/2017-Customs, dated 30th June 2017, concessional BCD at the rate of 5% has been prescribed on prawn feed, shrimp larvae feed and fish feed in pellet form. Certain interpretational issues have arisen as regards this entry. The entry has been rephrased to make the intention explicitly clear that concessional rate applies to prawn feed and shrimp larvae feed in all forms and fish feed in pellet form."*

6. It is seen from the above clarification that the concessional rate is applicable to prawn feed in all forms. Thus, the rejection of benefit of notification is unjustified. The impugned order is set aside and the appeal is allowed with consequential relief, if any.

(Dictated and pronounced in open court)

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

(**P. ANJANI KUMAR**)
Member (Technical)

Rex