

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
CHENNAI**

REGIONAL BENCH – COURT NO. I

**Customs Appeal No. 41666 of 2013**

(Arising out of Order-in-Appeal C.Cus. No. 877 & 878/2013 dated 27.06.2013 passed by the Commissioner of Customs (Appeals), No. 60, Rajaji Salai, Custom House, Chennai – 600 001)

**M/s. J.U. Pesticides & Chemicals Private Limited** : **Appellant**  
530/2-C, Vanagaram Road,  
Ambattur, Chennai – 600 058

**VERSUS**

**Commissioner of Customs** : **Respondent**  
Custom House, No. 60, Rajaji Salai, Chennai – 600 001  
**AND**

**Customs Appeal No. 41667 of 2013**

(Arising out of Order-in-Appeal C.Cus. No. 877 & 878/2013 dated 27.06.2013 passed by the Commissioner of Customs (Appeals), No. 60, Rajaji Salai, Custom House, Chennai – 600 001)

**M/s. Tropical Agro System (India) Private Limited** : **Appellant**  
Jhaver Centre, IV Floor,  
72, Old No. 19, Marshall Road,  
Egmore, Chennai – 600 008

**VERSUS**

**Commissioner of Customs** : **Respondent**  
Custom House, No. 60, Rajaji Salai, Chennai – 600 001

**APPEARANCE:**

Shri S. Murugappan, Learned Advocate for the Appellant(s)

Shri S. Balakumar, Learned Assistant Commissioner for the Respondent

**CORAM:**

**HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)**

**HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)**

**FINAL ORDER NOs. 40496-40497 / 2023**

DATE OF HEARING: 22.06.2023

DATE OF DECISION: 28.06.2023

**Order : [Per Hon'ble Mr. P. Dinesha]**

These appeals are filed against the common Order-in-Appeal C.Cus. No. 877 & 878/2013 dated 27.06.2013 passed by the Commissioner of Customs (Appeals), Chennai. Though the parties are different, but however, since we have a common representative who has no objection for considering both the appeals together, the appeals are heard together for common disposal.

2. Heard Shri S. Murugappan, learned Advocate, for the appellants and Shri S. Balakumar, learned Assistant Commissioner.

3. After hearing both sides, we find that the Commissioner (Appeals), as per the impugned Order-in-Appeal, had directed the appellant to pre-deposit the entire duty liability which was disputed.

4. It appears that since the appellants were unable to make the full pre-deposit, had requested for modification of the quantum of pre-deposit by reducing the same. But however, the first appellate authority having not accepted the said plea, has dismissed the appeals itself on the very same ground of non-compliance with his directions for pre-deposit.

5. It appears that the appellant filed appeals against the said rejection before this Bench, but however, even this Bench vide Miscellaneous Order Nos. 40758 & 40759/2014 dated 28.05.2014 also insisted upon pre-deposit of the entire disputed amount, against which, it appears, both the appellants approached the Hon'ble High Court of Judicature at Madras.

6. The Hon'ble High Court vide its common Order dated 02.09.2014 in C.M.A. Nos. 2442 and 2443 of 2014 and M.P. Nos. 1 of 2014 held that the "Tribunal was not justified in ordering the pre-deposit in the manner stated in its order

dated 28.05.2014..." and consequently, directed the appellants to pre-deposit a sum of Rs.5,00,000/-.

7. It appears that the appellants having complied with the said directions, the present appeals have been listed for final hearing.

8. On a perusal of the impugned order and upon hearing both sides, who agree that the first appellate authority has not given any finding on merits, we deem it most appropriate to set aside the impugned order and further direct the first appellate authority to dispose of the appeals only on merits. The first appellate authority shall adhere to the principles of natural justice by affording reasonable opportunities to the appellants and thereafter, pass a speaking order on merits in accordance with law. Accordingly, the impugned orders are set aside and the appeals are allowed by way of remand. All the contentions on merits are left open.

(Order pronounced in the open court on **28.06.2023**)

Sd/-  
**(VASA SESHAGIRI RAO)**  
MEMBER (TECHNICAL)

Sd/-  
**(P. DINESHA)**  
MEMBER (JUDICIAL)

Sdd