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

COURT HALL No.III

CUSTOMS APPEAL No. 40962 OF 2013

(Arising out of Order-in-Original No.02/2013 dated 06.03.2013 passed by Commissioner of Customs, Custom House, Tuticorin 628 004.)

M/s.Unik Traders **.... Appellant**
140, Old Tharagupet,
Bangalore 560 053.

Versus

The Commissioner of Customs **...Respondent**
Custom House,
Tuticorin 628 004.

APPEARANCE :

Mr. B. Satish Sundar, Advocate
Dr. S. Krishnanandh, Advocate
For the Appellant

Mr. R. Rajaraman, Assistant Commissioner (A.R)
For the Respondent

CORAM :

Hon'ble Ms. SULEKHA BEEVI C.S., Member (Judicial)
Hon'ble Mr. VASA SESHAGIRI RAO, Member (Technical)

DATE OF HEARING : 03.07.2023
DATE OF DECISION :06.07.2023

FINAL ORDER No.40538/2023

ORDER : Per Ms. SULEKHA BEEVI, C.S.

Brief facts are that on the basis of intelligence that "Monosodium Glutamate", a food additive used as flavouring agent has been imported in violation of the provisions of the Prevention of Food Adulteration Act, 1954 (PFA Act) and the Prevention of Food Adulteration Rules, 1955 (PFA Rules) read with provisions of the Customs Act, 1962, the D.R.I officers, Tuticorin opened and examined the imported goods in 22 containers declared as "Monosodium Glutamate". The goods were imported by M/s. Unik Traders, Bangalore (appellant) vide Bills of Entry dated 26.05.2011, 10.08.2011 & 17.08.2011. On examination, the officers noted that the bags showed besides batch number, production date, only the following details :-

ISO 9001 : 2008
MSG
MONOSODIUM GLUTAMATE
PURITY > 99%
Net Wt : 25 Kg
Meet the standard requirement
of GB/T8967-2007

MADE IN CHINA

1500/17009

2. The name and address of the manufacturer were not found mentioned on the bags. As per Section 2 (v) of Prevention of Food Adulteration Act, 1954, the "Monosodium Glutamate" is covered under the definition of "Food" and thereby come under the purview of the

prevention of Food Adulteration Act, 1954. According to Rule 32 (c) of the Prevention of Food Adulteration Rules, 1955, the name and complete address of the manufacturer and the importer should be mentioned on each of the bags that contain the food items.

3. Therefore, the officers seized the entire quantity of 506 MTs of "Monosodium Glutamate" imported in the 22 containers under Mahazar dated 01.08.2011 and 02.08.2011. The details of goods seized, invoice no., value as declared by the importer are given below :

Sl.No.	Bill of Entry No. & Date	Invoice No. & Date	Qty. (MTS)	Rate per MT	Total Decld. Value (CIF)	Declared value (in ₹ (in CIF)	Declared Duty in ₹.)
1.	3618504/ 26.05.2011	VML-11082-11 dated 04.04.2011	138	USD 1300	USD 179400	81,53,730	13,18,184
2.	4324694/ 10.08.2011	VMIN 11012 dated 18.04.2011	184	USD 1300	USD 239200	1,07,99,162	25,79,992
3.	4376254/ 17.08.2011	VMIN 11034 dated 24.05.2011	184	USD 1300	USD 239200	1,07,99,162	25,79,992
Total						2,97,52,054	64,78,168

4. Statement of Shri Asif Hanif Thara, in charge of M/s.Unik Traders, Bangalore (Importer) was recorded. On verification of documents produced by the importer, such as Country of origin Certificate in respect of Bill of Entry dated 17.08.2011 and 26.04.2011 it was noticed that the cargo was supplied by M/s."Villa Mode (China) Co. Ltd.", China. On perusal of invoice, it showed that the importer has declared M/s. Prudence Enterprises, Hongkong as supplier. A certificate dated 17.06.2011 showed that M/s. Prudence Enterprises, Hongkong had purchased the goods from M/s.Neimenggu Fufeng Biotechnologies Co.

Ltd., China. The importer had not produced the Country of Origin certificate for Bill of Entry dated 26.05.2011. On being questioned by the officers, the importer stated that he has not furnished the certificate of origin since he did not claim any exemption. In his statement, it was stated that he had specifically requested the supplier not to mention the manufacturer's name and address on the packages. Further the claim of the importer and the details mentioned in the country of origin did not reconcile.

5. The issue was taken up with the authorities of Food Safety and Standards, New Delhi. The said authority clarified vide letter dated 14.07.2011 that :-

"Import of Food Articles is regulated under Section 5 & 6 of the Prevention of Food Adulteration Act, 1954

Section 5 of the Act, reads as follows :

Prohibition of import of certain articles of food :

No person shall import into India—

(i) any adulterated food;

(ii) any misbranded food;

(iii) any article of food for the import of which a licence is prescribed, except in accordance with the conditions of the licence ; and

(iv) any article of food in contravention of any other provision of this Act or of any rule made thereunder.

Section 6 in The Prevention of Food Adulteration Act, 1954

(i) (1) Application of law relating to sea customs and powers of Customs Officers. The law for the time being in force relating to sea customs and to goods, the import of which is prohibited by section 18 of the Sea Customs Act, 1878 (8 of 1878), shall, subject to the provisions of section 16 of this Act, apply in respect of articles of food, the import of which is prohibited under section 5 of this

Act, and officers of Customs and officers empowered under that Act to perform the duties imposed thereby on a Customs Collector and other officers of Customs shall have the same powers in respect of such articles of food as they have for the time being in respect of such goods as aforesaid.

(ii) (2) Without prejudice to the provisions of sub-section (1) the Customs Collector, or any officer of the Government authorised by the Central Government in this behalf, may detain any imported package which he suspects to contain any article of food the import of which is prohibited under section 5 of this Act and shall forthwith report such detention to the Director of the Central Food Laboratory and, if required by him, forward the package or send samples of any suspected article of food found therein to the said Laboratory."

6. As per sub-rule (c) to Rule 32 of the Prevention of Food Adulteration Rules, 1955, the name and complete address of the manufacturer, the importer's details, manufacturing date and expiry date are required to be specified on the label of any package of food.

7. Rule 64 (B) of the PFA Rules, 1955 prescribes the conditions for use of "Monosodium Glutamate" in food. It is stated that the item may be added to food as per the conditions in Appendix-C subject to Goods Manufacturing Practice (GMP) level and proper label declaration as provided in Rule 42 (S). As per Rule 64 (B) Monosodium Glutamate shall not be added to any food for use by the infant below 12 months and is in the list of foods (51 Nos.) detailed in Rule 64 (B). Rule 32 (k) of the PFA Rules,1955 reads "*instructions for use- instructions for use, including, reconstitution, where applicable, shall be included on the label, if necessary, to ensure correct utilization of the goods"*.

8. According to the department, the importer should have mentioned the details as per Rule 64 (B) read with Rule 32 (k) on the packages. The importer / appellant failed to adhere to the above PFA

Rules, 1955. The importer imported the items viz. food additives which can be cleared only if it conforms to the PFA Act 1954 read with Food Safety and Standards Act, 2006 (FSS Act). Hence samples were drawn and forwarded to the Referral Food Laboratory, CFTRI, Mysore. The said laboratory gave their opinion vide certificate dated 13.12.2011 wherein it was stated that "*the sample conforms as a permitted Food Additive (Monosodium Glutamate)_ under the Food Safety and Standards Act, 2006 and Rules, 2011 thereof*".

9. In the said report, label details were also mentioned. The said label was neither available on the consignment nor was it forwarded by the Customs along with samples. For these reasons, the Director of CFTRI, Mysore was addressed as to how the details of the label were furnished in their test report. In response, the Director, CFTRI, Mysore submitted that the label details were provided by the importer while submitting the samples for analysis. It appeared that the importer has mislead the Referral Food Laboratory, Mysore by furnishing the data not available in the import consignment. It appeared to the department that the report of the Referral Food Laboratory on the above aspect is nothing but reproduction of details furnished in the Certificate of Analysis produced by the importer to the Laboratory and thus cannot be accepted.

10. Since "Monosodium Glutamate" is used as a flavouring agent and in terms of Section 2 (v) of the PFA Act, 1954, the subject goods are covered under the definition of "Food" and in terms of Rule 32 (c) of the PFA Rules, 1955, the name and address of the manufacturer as

well as the importer should be mentioned on each of the bags, the department was of the view that goods are imported contravening the above provisions and therefore are prohibited for import in terms of Section 5 of the PFA Act, 1954 read with Customs Act, 1962. Hence goods imported vide the three Bills of Entry are liable for confiscation under Section 111 (d) of the Customs Act, 1962 and the importer is liable for penal action under Section 112 (a) of the Customs Act, 1962.

11. The officers also noticed that the value of goods declared by the importer which is USD 1300 per MT was significantly low when compared with the price available in the National Import Data Bank (NIDB). The officers adopted a contemporaneous price of Rs.69,750/- equivalent to USD 1550 which had been adopted in Bill of Entry No.4407862 dated 19.08.2011 of similar goods. Thus the value declared as US 1300 per MT by appellant was rejected and the value was proposed to be redetermined as USD 1550 per MT under Rule 12 and 9 respectively of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Accordingly, the appellant was liable to pay differential duty of Rs.20,39,548/-. Show cause notice dated 25.01.2012 was issued to the appellant proposing to redetermine the value and for demanding a differential duty along with proposal to impose penalty under Section 112 (a) of Customs Act, 1962 for having rendered the goods liable for confiscation. It was also proposed as to why the goods should not be ordered for re-export at the cost of the exporter.

12. Meanwhile, the importer/appellant approached the Hon'ble Jurisdictional High Court by filing W.P. (MD) No.833 of 2012 seeking for provisional release of the goods. The Hon'ble High Court vide order dated 23.04.2012 allowed provisional release of goods directing the appellant to pay the differential duty of Rs.20,39,548/- within two weeks. The Hon'ble High Court also directed the petitioner to comply with all the conditions of repacking and relabelling of the goods in the customs bonded warehouse and for inspection of the goods by the Port Health authorities. Against the said order, the department filed W.A.No.415 of 2012 before the Division Bench and the Hon'ble High Court vide order dated 14.09.2012 affirmed the orders passed by the Single Judge. The appellant paid the differential duty of Rs.20,39,548/- on 04.10.2012. In the presence of officials of the Public Analyst, Food Analysis Laboratory, the samples were drawn for test purpose. The labelling and packings were supervised by Port Health Authorities. Test report dated 07.12.2012 was received from the Port Health authorities who confirmed that the goods are in conformity with the provisions of the Food Safety and Standards Act, 2006 and Regulations 2011.

13. The appellant filed a reply to the show cause notice on 12.10.2013. After due process of law, the original authority passed the impugned order rejecting the declared value and enhanced the value to Rs.69,250/- per MT as per Rule 5 of the Customs Valuation Rules, 2007 and ordered the appellant to pay appropriate duty on the redetermined value. The original authority noted that as the Hon'ble

High Court had directed for provisional release of goods on complying with certain conditions, ordered that goods are liable for confiscation for violation of the provisions of the PFA Act, 1954 and Rules 1955 read with provisions of Customs Act, 1962. The original authority gave option to the importer to redeem the goods on payment of fine of Rs.30 lakhs. A penalty of Rs.70 lakhs was imposed under Section 112 of the Customs Act, 1962. The amounts paid by the appellant were ordered to be appropriated. The original authority also ordered for enforcing the bond and bank guarantee executed by appellant.

14. Aggrieved by such order, the appellants are now before the Tribunal.

15. Ld. Counsel Shri B. Satish Sundar, assisted by Dr. S. Krishnanandh, Advocate appeared and argued for the appellant.

16. On the first point of enhancement of value and demand of differential duty, it is submitted by the Ld. Counsel that the adjudicating authority has relied upon the NIDB database to redetermine the value of the goods. The adjudicating authority has taken into consideration one stray import made in Bill of Entry No.4407862 dated 19.08.2011 to redetermine the price at USD 1550 per MT against the declared value of USD 1330 per MT. It is argued by the Ld. Counsel that NIDB data per se cannot be a pointer for revaluation in the absence of comparable details with respect to quantity of goods imported, quality of goods, identity of the supplier, country of origin and other factors. It is submitted that the appellant was given only a copy of the Bill of Entry and the details with regard to

name of the supplier and country of origin etc. were not informed to them. Ld. Counsel relied upon the following decisions to argue that NIDB data cannot be the basis for enhancement of value of the goods :-

1) *Commissioner of Customs Vs. D.M. International* – 2013 (289) ELT 169 (Tri.-Del.)
2) *Topsia Estates Pvt. Ltd. Vs CC* – 2015 (30) ELT 799 (Tri.-Chennai)
3) *Akash Enterprises Vs CC New Delhi* - 2017 (358) ELT 985 (Del.)
4) *Varun Overseas Vs CC New Delhi* – 2019 (369) ELT 1239 (Tri.-Chan.)

17. Ld. Counsel adverted to the show cause notice and submitted that proposal made in the SCN is to enhance the value by applying Rule 9 whereas the original authority has enhanced the value applying Rule 5 of the CVR 2007.

18. In regard to the issue of imposing redemption fine and penalty for violations of provisions of PFA Act and PFA Rules and rendering the goods liable for confiscation, Ld. Counsel submitted that the finding of the original authority that there is violation of Rule 32 (c) of PFA Rules and the provisions of Food Safety and Standards (Packaging and Labelling) Regulations, 2011 is hyper technical inasmuch as these deficiencies have been rectified by the appellant pursuant to the orders of the jurisdictional High Court. The decision of Tribunal in the case of *M/s.Avenue Impex Vs CC Chennai* vide Final Order No.1166/2011 dated 27.10.2011 was relied by the Ld. Counsel to argue that in a similar matter of import of Oats, where the issue was non-fulfilment of the conditions of labelling on the bulk packs, the Tribunal held that the said defect is rectifiable and the goods were ordered to be released

after complying with the conditions of repacking and relabelling in the custom bonded warehouse. The said order of the Tribunal was appealed by the department before the High Court of Madras and vide order in W.P. No.30323 of 2011 dated 12.01.2011 the High Court upheld the order of the Tribunal. Ld. Counsel submitted that the judgment by the Hon'ble High Court in the case of *M/s.Avenue Impex* was relied by the Hon'ble High Court while considering the request provisional release of the goods in the appellant's case. This being the case, the original authority ought not to have confiscated the goods and imposed redemption fine and penalties. The infractions, if any, having been rectified pursuant to Hon'ble High Court's order there are no grounds for confiscating the goods at the time of passing the order. The repacking and relabelling was done in the customs bonded warehouse under the supervision of the Customs officers and Port Health Authorities.

19. Alternatively, it is also argued that the allegation that appellant has violated Rule 32 (c) of PFA Rules 1955 is misconceived in asmuch as the said Act was repealed and the provisions of Food Safety and Standards Act, 2006 had come into effect on 05.08.2011. Therefore the provisions of FSSA, 2006 would apply to the facts of this case and the allegation of violation of PFA Act and PFA Rules cannot sustain. The FSSA, 2006 makes a distinction between "Food" and "Food Additive". "Food" has been defined in Section 3 (j) and "Food Additive" has been defined in Section 3 (k). With respect to food, there is a requirement for labelling. The labelling regulations 2.2.1 states that every

prepackaged food shall carry label containing requisite information. Para. 2.2.2 states, in addition to general labelling requirements every package of food shall carry the label mentioning the name of the food, nutritional information, declaration regarding veg or non-veg, name and complete address of the manufacturer. etc. Ld. Counsel argued that in respect of food additives, there is no such requirement especially when imported in bulk. Chapter 3 of 2011 Regulations covers substances added to food. Chapter 3.1 covers food additives and para 3.1.1.11 talks about use of flavour enhancer. The first entry is monosodium glutamate which as per the Regulations may be added to food as per provisions contained in Appendix-A subject to food manufacturing level and under proper declaration as provided in Regulation 2.4.5 (18) of Food Safety and Standards (Packaging and Labelling) Regulations, 2011.

20. The said provision states that every package of food containing monosodium glutamate shall carry a declaration on the package indicating the name of the food containing added monosodium glutamate and not recommended for infants below 12 months. It is thus argued by the Ld. Counsel that *prima facie* the question of compliance of Rule 32 (c) and Rule 32 (k) of the PFA Rules, 1955 and the FSS Act 2006 and the Regulations 2011 does not arise at all. For this reason also, the penalty and redemption fine imposed cannot sustain. Ld. Counsel prayed that the appeal may be allowed.

21. Ld. A.R. Sri R. Rajaraman appeared and argued for the Department. The discussions made by the adjudicating authority in para-31 of the impugned order was referred to by the Ld. A.R to argue that the appellant has not furnished necessary documents at the time of import. The documents produced by appellant did not contain the details of the manufacturer. The country of origin certificate stated that the goods are supplied by M/s.Prudence Enterprises, Hong Kong whereas the said entity claimed that the goods were purchased from M/s.Neimenggu Fufeng Biotechnologies Co. Ltd., China. The certificate produced did not have sufficient clarity with regard to name and address of the manufacturer. In para-33 the adjudicating authority has explained the reason he has adopted Rule 5 for enhancing the value. Further, in para-35 it has been noted that as per NIDB data, similar type of goods have been imported from various countries at various rates ranging from minimum of Rs.69,750/- per MT (USD 1550 Per MT) and maximum of Rs.77,649/- per MT. The value declared by the appellant was too low and the adjudicating authority has adopted the minimum value as available in NIDB data. Though the SCN proposes to determine the value under Rule 9 of Customs Valuation (Determination of value of Imported Goods), Rules, 2007, as per Rule 3, when the declared value is rejected under Rule 12, the next course to be followed as in sequential order from Rule 4 to Rule 8, the adjudicating authority has rightly adopted Rule 5 of the CVR 2007.

22. In regard to the argument of the Ld. Counsel that there has been no violation of provisions of PFA Act and Rules, Ld. A.R submitted that even if the goods are imported in bulk, it is necessary to mention the name and address of the manufacturer along with expiry date of the goods. The appellant has not complied with the said requirement at the time of import. Though they may have fulfilled the condition after the directions of the Hon'ble High Court, the infraction having occurred at the time of import, the adjudicating authority has rightly imposed redemption fine and penalty. He prayed that the appeal may be dismissed.

23. Heard both sides.

24. The first issue is with regard to the value enhanced by the adjudicating authority. It is correct that in show cause notice the proposal is to enhance the value in terms of Rule 9 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. However, adjudicating authority has applied Rule 5 to confirm the enhancement of value and to demand differential duty. The value has been enhanced solely on the basis of NIDB data. The details of bill of entry has been mentioned. It is not clear as to which is the country from which the contemporaneous imports are made. So also, the name of the supplier is not clear. The appellant ought to be provided with complete details of the contemporaneous import relied upon to enhance the value. The courts have cautioned against the sole reliance of NIDB data for enhancement of value. In the case of *Topsia Estates Pvt. Ltd. Versus Commr. of Cus. (Import-Seaport), Chennai* – 2015

(330) ELT 799 (Tri.-Chennai), the Tribunal held that the value declared cannot be rejected merely on the basis of NIDB data. Relevant discussion reads as under :

> **"8.** The Hon'ble Supreme Court in the case of *Eicher Tractors Ltd.* (supra) held that the value, according to Section 14(1) of the Customs Act, 1962, shall be taken to be the price at which such or like goods are originally sold, or offered for sale, for delivery at the time and place of importation in the course of international trade. The 'special circumstances' have been statutorily particularized in the Customs Valuation Rules and in the absence of these exceptions, it is mandatory for customs to accept the price actually paid or payable for the goods in the particular transaction.
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> **9.** The Tribunal in the case of *DM International* (supra), respectfully following the decision of the Hon'ble Supreme Court in the case of *Eicher Tractors Ltd.* (supra), held as under : -
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> "5. We find that there is no dispute that the customs has power to reject the transaction value and enhance the assessable value in terms of Customs Valuation Rules. However, such rejection of transaction value and enhancement of assessable value has to be on the basis of some evidences on record. Contemporaneous imports have to be considered with reference to quality, quantity and country of origin with the imports under consideration. It has been held in a number of decisions that NIDB data cannot be made the basis for enhancement of value. Commissioner (Appeals) has relied upon various decisions of the Tribunal for holding that any enhancement in assessment value, the transaction value has to be first rejected based on legal permissible ground as indicated in the Valuation Rules. He has also referred to Hon'ble Supreme Court decision in the case of *Eicher Tractors Ltd.* v. *CC* - 2000 (122) E.L.T. 321 (S.C.) in support of his finding that transaction value cannot be rejected without clear and cogent evidence produced by the department with regard to quality, import of origin and place and time of import."
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> **10.** In the case of *Om Sairam Trading* (supra), held as under : -
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> "5. After hearing both sides and on perusal of the record, we find that the respondents paid duty under protest as evident from the TR-6 challan produced by the respondents. This fact was also recorded in the impugned order. Commissioner (Appeals) passed the order following the decision of the Hon'ble Supreme Court in the case of *Eicher Tractors Ltd.* v. *Commissioner of Customs* - 2000 (122) E.L.T. 321 (S.C.), wherein it is held that transaction value cannot be rejected without clear and cogent evidence produced by the department in respect of import of identical or similar goods with regard to quantity, quality, country of origin and place and time of import. The learned DR relied upon letter dated 30-9-2005 of Assistant Commissioner (SIIB), ICD, TKD, addressed to Assistant Commissioner (Import Processing), ICD, Tughlakabad whereby it is stated that benchmark price for knitted polyester fabrics is arrived at US $ 2.50 per kg. We find that the price cannot be enhanced merely on the basis of benchmark price without stating any reason for rejecting transaction value. It appears that NIDB data placed by the learned DR has followed the benchmark price. Accordingly, we do not find any reason to interfere with the order of the Commissioner (Appeals). The appeal filed by Revenue is rejected."

> **11.** We find that in the present case, the adjudicating authority enhanced the value as the declared value appears to be very low compared to value available in NIDB data, otherwise, there is no material available. The Tribunal consistently observed that the declared value cannot be enhanced merely on the basis of NIDB data. It is noticed that the value of impugned goods varies widely on the basis of quality, size, quantity, etc., and it is contended by the appellant before the lower appellate authority that the declared value of the same goods were accepted by the Department at Kolkata Port. We also find force in the submission of the learned Advocate that in this particular situation, Rule 9 of the Valuation Rules would not be invoked.
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> **12.** In view of the discussions above and respectfully following the decision of the Hon'ble Supreme Court which was followed by the Tribunal in various decisions, we hold that in the present case, the enhancement of value on the basis of NIDB data cannot be accepted. Accordingly, the impugned orders are set aside and the appeal is allowed with consequential relief, if any."

25. In the present case, the department has failed to substantiate as to how the value adopted on the basis of NIDB data is comparable in the absence of details required in the nature of name of manufacturer, country of origin etc. to arrive at contemporaneous price. The facts being so, we are of the view that there are no sufficient reasons to reject the transaction value and for the enhancement of value. The demand of differential duty cannot sustain and requires to be set aside which we hereby do.

26. The second issue is with regard to confiscation of the goods and the imposition of redemption fine and penalty. The adjudicating authority has held that the goods are liable for confiscation for violation of Section 2 (v) of PFA Act and the PFA Rules 1955 read with the provisions of Customs Act, 1962. The main allegation of violations of PFT Act and the PFA Rules is that the packages imported did not contain the details of manufacturer as required under the said Act. The Ld. Counsel has put forward arguments contending that the PFA Act and Rules would not be applicable as FSS Act, 2006 had come into

effect on 5.8.2011. It is also argued that 'Monosodium Glutamate' is not a 'food' but only a food additive.

27. Be that as it may, we note that the Hon'ble High Court vide order dated 23.04.2012 directed for provisional release of the goods after complying with the conditions. Relevant para reads as under :

> "The respondent is directed to release the goods in question only on the petitioner undertaking to provide all necessary details required to comply with the local laws, at the time of repacking and relabelling of the said goods in the customs bonded area, before the necessary customs clearance is given. Since the goods would be subjected to necessary tests by the Port Health Authorities, before the customs clearance is sought for by the petitioner, the respondent shall allow the petitioner to re-pack and re-label the goods in a customs bonded area, subject to mutual convenience. Similarly, as it is open to the Port Health Authorities to test and certify the detained goods, a fresh order may be passed by the original authority, after the certification is done by the Port Health Authorities. Sufficient safeguards are to be taken to make sure that the goods in question are fit for human consumption, as they would be released only after appropriate inspection by the Port Health Authorities. Further, the petitioner shall abide by any other condition to be imposed by the respondent for release of the goods. The respondent shall not release the goods unless they are found to be fit for human consumption. The entire exercise shall be completed within a period of four weeks from the date of receipt or production of a copy of this order."

28. The said decision was appealed before the Division Bench of the Hon'ble High Court and vide order dated 14.09.2012 in W.A (MD) No.415 of 2012 directed for release of the goods affirming the orders passed by the single judge. The infractions alleged under the PFA Act and Rules and FFS Act 2006, if any, has been rectified. The Tribunal in the case of *M/s.Avenue Impex* vide Final Order No.1166/2011 dated 27.10.2011 had occasion to consider a similar situation. The imported goods which did not comply with the requirement of providing necessary details on the bulk bags was ordered to be released after

complying with the repacking and relabelling in the customs bonded premises. In the present case, the goods having been released after rectifying the deficiency and on fulfilment of the conditions, as per direction of Hon'ble High Court, we are of the view that confiscation of goods cannot sustain. Consequently, we hold that the redemption fine and penalties imposed are required to be set aside, which we hereby do.

29. In the result, after appreciating the facts and following the decisions cited supra, we hold that the impugned order cannot sustain. The same is set aside. Appeal is allowed with consequential relief, if any.

(order pronounced in court on 06.07.2023)

sd/-

(VASA SESHAGIRI RAO)
Member (Technical)

sd/-

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

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