IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT NO. III

Customs Appeal No. 40311 of 2015

(Arising out of Order-in-Appeal No. 113/2014 dated 31.10.2014 passed by Commissioner of Customs (Appeals-II), No. 60, Rajaji Salai, Custom House, Chennai – 600 001)

M/s. PL Agro Technologies **...Appellant**
No. 146, Kilavaram Village,
Madhuranthagam Taluk,
Kancheepuram – 603 303.

Versus

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

APPEARANCE:

For the Appellant : Mr. M. Karthikeyan, Advocate
For the Respondent : Mr. Harendra Singh Pal, Authorised Representative

CORAM:

HON'BLE MS. SULEKHA BEEVI C.S., MEMBER (JUDICIAL)
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER No. 41152 / 2024

DATE OF HEARING/ DECISION: 26.08.2024

Order :- Per Ms. Sulekha Beevi C.S.

The above appeal is filed by the appellant against the order passed by the Commissioner (Appeals) who confirmed the redetermination of classification as well as the demand of duty as ordered by the Original Authority.

2.1 The Ld. Counsel Shri M. Karthikeyan appeared for the appellant. It is submitted that the appellant is not contesting the issue of classification in regard to Natural Brassinolide Powder imported by the appellant. The redetermination of classification is accepted by the appellant.

2.2 The Adjudicating Authority has erroneously demanded duty of Rs.1,32,248/- which is the duty demand by taking into consideration all the three products imported by the appellant. It is submitted that the appellant had imported goods *viz.,* Natural Brassinolide Powder, Humic Acid and Seaweed Extract Powder *vide* the same Bill of Entry. Out of this, the misclassification was alleged only with regard to Natural Brassinolide Powder. The Ld. Counsel adverted to the notice issued by the Department dated 09.03.2012 which gives the reason for demand. In the said para, the Adjudicating Authority has noted that the classification with regard to Natural Brassinolide Powder has to fall under 38089340 instead of 31010099 as classified by the appellant. Consequent to the incorrect classification, the duty demand was confirmed. There is no dispute with regard to other two products. However, while quantifying the duty, the Original Authority has taken into consideration all the three goods imported by the appellant instead of enhancing the value with regard to Natural Brassinolide Powder only. This has resulted in demand of Rs.1,32,248/- instead of Rs.43,205/- applicable to Natural Brassinolide Powder only.

2.3 Although, the appellant had put forward this contention before the Commissioner (Appeals), the same was not considered. The appellant has already paid an amount of Rs.40,000/- pursuant to the stay order passed by the Commissioner (Appeals). It is prayed that the appeal may be allowed.

3. The Ld. Authorised Representative Shri Harendra Singh Pal appeared for the Department and reiterated the findings in the impugned order.

4. Heard both sides.

5. As narrated above, the appellant is not contesting the issue of classification. Thus, the classification in regard to the imported goods *viz.,* Natural Brassinolide Powder is upheld. On going though the Show Cause Notice, it is seen that the demand of Rs.1,32,248/- has been confirmed by including the assessable value of all the three goods imported by the appellant. This is factually incorrect. The Show Cause Notice itself shows the calculation of differential duty in regard to Natural Brassinolide Powder to be Rs.43,205/-. However, demand confirmed is Rs.1,32,248/-.

6. After perusal of records, we are of the considered opinion that the demand for Rs.1,32,248/- cannot sustain. The appellant is liable to pay Rs.43,205/- only in regard to import of Natural Brassinolide Powder. The appellant has paid Rs.40,000/-.

7. The impugned order is modified to the extent of confirming the demand of Rs.43,250/- only. The appeal is partly allowed in above terms with consequential reliefs, if any.

(Order dictated and pronounced in open court)

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

Sd/-
(SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)

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