CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL NEW DELHI

PRINCIPAL BENCH, COURT NO. 2

E-Hearing

Customs Appeal No. 52241 of 2024

[Arising out of Order-IN-Appeal No. 16-RLM-CUS-JPR-2024 dated 12.07.2024 & 29.04.2024 passed by the Commissioner (Appeals) Central Excise & CGST Jaipur,]

M/s Shri Ahimsa Naturals Ltd **......APPELLANT**

(Formerly M/s Shri Ahimsa Mines and Minerals Ltd. (100% EOU), R-94, RIICO Industrial Area, Bagru Extn., Bagru Jaipur, Rajasthan 303007

Vs.

Commissioner of Customs(Preventive) **.......RESPONDENT**

Jodhpur, Hqrs at Jaipur,
N C R Building, Statue circle, C-Scheme, Jaipur
Rajasthan 302005

Appearance:
Shri Anurag Basu, Advocate for the Appellant
Shri Anand Narayan, Authorised Representative for the Respondent

CORAM:
HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)

FINAL ORDER NO.50403/2026

Date of Hearing :19.03.2026
Date of Decision:19.03.2026

ASHOK JINDAL:

The appellant is in appeal against the impugned order, wherein, demand of custom duty of Rs. 18,02,148/- has been demand from the appellant for domestic clearances made by them without permission.

2. The facts of the case are that the appellant is 100% Export Oriented Unit (EOU) located in Jaipur, Rajasthan and having letter of permission from Noida SEZ for manufacturing Caffeine

Anhydrous Natural for 100% export which was amended from time to time and latest by 21.06.2016. The letter of permission mandates the substantial manufacturing in bonded premises as per CBEC Circular No. 65/2002-C positive Net Foreign Exchange (NFE), and 100% export obligation. The appellant made duty-free imports of crude caffeine (natural/extracted from tea/coffee) were permitted under Notification 52/2003-Cus, linked to FTP Chapter 6. FTP 2009-14 para 6.08(h) allowed. The appellant cleared caffeine Anhydrous natural during the period 05.10.2017 to 10.01.2019 in domestic tariff area by paying GST and IGST thereon. The appellant before making clearances to DTA also intimated to the Department about their clearances, the proceedings were initiated by DGFT against the appellant for clearance in DTA without permission which were not allowed to be clered in DTA and the DGFT imposed penalty equivalent to 1% total value of goods cleared in DTA and ordered to the Jurisdictional customs/Central Excise/GST authorities to take necessary action from recovery of duty on account of unauthorized clearances of goods in DTA if any and it was also ordered that whether any revenue implication on their clearances in DTA on full payment of duty; it was also held that the authorities are at the liberty to take action against the appellant under any act, rule regulation in force. In view of these observations of the order of DGFT, Development Commissioner a show cause notice dated 08.07.2022 was issued to the appellant to demand custom duty on the imports made by them under

Notification No. 52/2003-Cus. dated 31.03.2003 which were imported by them duty-free and after process, the said goods were cleared in DTA without permission. The matter was adjudicated demand of duty of Rs. 18,02,148/- was confirmed and an amount already paid Rs. 11,40,244/- was appropriated and interest was also demanded, penalty equivalent to demand of duty of Rs. 18,02,148/- was confirmed. Against the said order, the appellant is before me.

3. The learned consultant appearing on behalf of the appellant submits that there is a procedural violation of not obtaining permission before clearances does not vitiate the benefit of exemption notification as they have paid duty on their clearances and DGFT has only directed them to verify whether they have paid appropriated duty or not on their DTA clearances, in view of that demand of custom duty does not arise. He also submits that all the clearances were made during the period 05.10.2017 to 10.01.2019 and on that before clearing the goods in DTA the appellant sought permission from the jurisdictional authorities which is on record, therefore, show cause notice issued to them dated 08.07.2022 is barred by limitation.

4. On the other hand, the learned Authorized Representative for the Department supported the impugned order and submitted that the appellant were not entitled to DTA clearances and they have not obtained any permission for DTA clearances and for that violation DGFT has also imposed penalty on the appellant. In that circumstances, the appellant is liable to pay custom duty on the

goods imported by them without payment of duty at the time of clearances.

5. Heard the parties and considered the submissions.

6. Without going into the merits of the case, I find that in this case, the allegation against the appellant is that they have not obtained the necessary permission for clearance of the finished goods in domestic tariff area, therefore, there is a violation of condition of the Foreign Trade Policy 2009-14 para 6.08(h) and benefit of Custom Notification No. 52/2003-Cus. dated 31.03.2003 is not allowed. As appellant intimated to the Department for the clearances in DTA.

7. One of the such communication made by the appellant is extracted here for better appreciation of the facts:

ANNX : D (79)

admin@shriahimsa.com

From:	Admin Ahinsa <admin@shriahimsa.com>
Sent:	Tuesday, 1 January, 2019 14:44
To:	'customs.prev@gmail.com'
Cc:	'Ahimsa Info'; 'ahimsa@shriahimsa.com'
Subject:	Clearance of 250 Kgs. of Green Coffee Bean Extract on Payment of 100% Duty to Ambe Phytoextracts Pvt Ltd, 2nd Floor,Plot No.48, Hasanpur,I.P. Extension,Patparganj, New Delhi- 110092. Tel. Phone- 43764376
Attachments:	INTIMATION LETTER DATED 01.01.2019 FOR DESPATCH OF 250 KGS OF G.pdf; CHALLAN FOR DEPOSIT OF DUTY.pdf

01.01.2019

To
The Superintendent
Custom Preventive , Statue Circle
Jaipur (E-Mail: customs.prev@gmail.com

Sub : Clearance of 250 Kgs. of Green Coffee Bean Extract on Payment of 100% Duty to Ambe Phytoextracts Pvt Ltd, 2nd Floor,Plot No.48, Hasanpur,I.P. Extension,Patparganj, New Delhi- 110092. Tel. Phone- 43764376

Sir,

With reference to the above , we would like to state that we have cleared 250 Kgs. Of Green Coffee Bean Extract on Payment of 100% Duty to Ambe Phytoextracts Pvt Ltd 2nd Floor,Plot No.48, Hasanpur,I.P. Extension,Patparganj, New Delhi- 110092. Tel. Phone-43764376 on payment of 100% duty vide Invoice No. 152/2018-19/D dated 01.01.2019. Basic Custom Duty and SWC has been deposited vide Challan No. **51/2018-19** dated 01.01.2019. Copy of Pre-intimation letter , Copy of Challan and Invoice is attached herewith.

With Best Regards

Yours truly,
FOR, SHRI AHIMSA MINES AND MINERALS LTD.

SHRI AHIMSA NATURALS LIMITED JAIPUR

1

80

Shri Ahimsa Mines And Minerals Ltd.

01.01.2019

To
The Superintendent
Custom Preventive , Statue Circle
Jaipur (E-Mail: customs.prev@gmail.com

Sub : Clearance of 250 Kgs. of Green Coffee Bean Extract on Payment of 100% Duty to Ambe Phytoextracts Pvt Ltd, 2nd Floor,Plot No.48, Hasanpur,I.P Extension,Patparganj, New Delhi- 110092. Tel. Phone- 43764376

Sir, .

With reference to the above , we would like to state that we have cleared 250 Kgs. Of Green Coffee Bean Extract on Payment of 100% Duty to Ambe Phytoextracts Pvt Ltd 2nd Floor,Plot No.48, Hasanpur,I.P. Extension,Patparganj, New Delhi-110092. Tel. Phone- 43764376 on payment of 100% duty vide Invoice No. 152/2018-19/D dated 01.01.2019. Basic Custom Duty and SWC has been deposited vide Challan No. **51/2018-19** dated 01.01.2019. Copy of Pre-intimation letter , Copy of Challan and Invoice is attached herewith.

With Best Regards

Yours truly,
FOR, SHRI AHIMSA MINES AND MINERALS LTD.
Dipak Kumar Jain
(DIPAK KUMAR JAIN)
AUTHORISED SIGNATORY
Encl. As stated above

Office : 202, Upasana Apartment, E-14 Bihari Marg, Bani Park, Jaipur - 302 016, INDIA
Phone : +91-141-2202482 • Fax : +91-141-2203623 • website : www.naturalcaffeine.co.in
E-mail : info@naturalcaffeine.co.in, sammi@datainfosys.net
Factory Regd. Off. : E-94, RIICO Industrial Area (Bagru Extn.) P.O. Bagru - 303 007 Jaipur INDIA

SHRI AHIMSA NATURALS LIMITED JAIPUR

But no such permission was granted to the appellant. As the clearance in DTA was well within the knowledge of the Revenue as appellant has intimated all the times and no action was taken against the appellant the only action taken by the authorities below against the appellant on imposition of penalty by Development Commissioner. In that circumstances, the show cause notice issued to the appellant on 08.07.2022 is highly time barred, therefore, without going into the merits of the case, I hold that whole of the demand is barred by limitation. Accordingly, the demand against the appellant is dropped and no penalty in imposable on the appellant.

8. Consequently, the impugned order is set aside and the appeal is allowed on the ground of limitation.

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Kailash