CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD
REGIONAL BENCH - COURT NO. – I

Customs Appeal No. 30420 of 2017
(Arising out of **Order-in-Appeal** No.VJD-CUSTM-PRV-APP-045-16-17 dated 25.11.2016 passed by Commissioner of Customs, Central Excise, & Service Tax (Appeals), Guntur)

M/s Emami Agrotech Ltd., .. APPELLANT
(Formerly Known as Emami Biotech Ltd.,)
Sy No. 501-510, Pantapalem,
Epuru, Mutukur Mandal,
Nellore Distirct,
Andhra Pradesh – 524 344.

VERSUS

Commissioner of Customs .. RESPONDENT
Guntur
P.B.No. 331, C.R.Building,
Kannavari Thota, Guntur,
Andhra Pradesh – 522 004.

WITH

Customs Appeal No. 30421 of 2017
(Arising out of **Order-in-Appeal** No.VJD-CUSTM-PRV-APP-046-16-17 dated 25.11.2016 passed by Commissioner of Customs, Central Excise, & Service Tax (Appeals), Guntur)

M/s Emami Agrotech Ltd., .. APPELLANT
(Formerly Known as Emami Biotech Ltd.,)
Sy No. 501-510, Pantapalem,
Epuru, Mutukur Mandal,
Nellore Distirct,
Andhra Pradesh – 524 344.

VERSUS

Commissioner of Customs .. RESPONDENT
Guntur
P.B.No. 331, C.R.Building,
Kannavari Thota, Guntur,
Andhra Pradesh – 522 004.

WITH

Customs Appeal No. 30422 of 2017
(Arising out of **Order-in-Appeal** No.VJD-CUSTM-PRV-APP-047-16-17 dated 25.11.2016 passed by Commissioner of Customs, Central Excise, & Service Tax (Appeals), Guntur)

M/s Emami Agrotech Ltd., .. APPELLANT
(Formerly Known as Emami Biotech Ltd.,)
Sy No. 501-510, Pantapalem,
Epuru, Mutukur Mandal,
Nellore Distirct,
Andhra Pradesh – 524 344.

VERSUS

Commissioner of Customs .. RESPONDENT
Guntur
P.B.No. 331, C.R.Building,
Kannavari Thota, Guntur,
Andhra Pradesh – 522 004.

WITH

Customs Appeal No. 30423 of 2017
(Arising out of **Order-in-Appeal** No.VJD-CUSTM-PRV-APP-048-16-17 dated 25.11.2016 passed by Commissioner of Customs, Central Excise, & Service Tax (Appeals), Guntur)

M/s Emami Agrotech Ltd., .. APPELLANT
(Formerly Known as Emami Biotech Ltd.,)
Sy No. 501-510, Pantapalem,
Epuru, Mutukur Mandal,

Nellore Distirct,
Andhra Pradesh – 524 344.

VERSUS

Commissioner of Customs Guntur .. **RESPONDENT**
P.B.No. 331, C.R.Building,
Kannavari Thota, Guntur,
Andhra Pradesh – 522 004.

AND

Customs Appeal No. 30424 of 2017

(Arising out of **Order-in-Appeal** No.VJD-CUSTM-PRV-APP-049-16-17 dated 25.11.2016 passed by Commissioner of Customs, Central Excise, & Service Tax (Appeals), Guntur)

M/s Emami Agrotech Ltd., .. **APPELLANT**
(Formerly Known as Emami Biotech Ltd.,)
Sy No. 501-510, Pantapalem,
Epuru, Mutukur Mandal,
Nellore Distirct,
Andhra Pradesh – 524 344.

VERSUS

Commissioner of Customs Guntur .. **RESPONDENT**
P.B.No. 331, C.R.Building,
Kannavari Thota, Guntur,
Andhra Pradesh – 522 004.

APPEARANCE:

Shri Rahul Dhanuka, Advocate for the Appellant.
Shri A Rangadham, Authorised Representative for the Respondent.

CORAM: **HON'BLE Mr. SOMESH ARORA, MEMBER (JUDICIAL)**
HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)

FINAL ORDER No. A/30326-30330/2024

Date of Hearing:14.06.2024
Date of Decision:14.06.2024

[ORDER PER: SOMESH ARORA]

The matter in this case pertains to differential quantity in relation to liquid cargo received in relation to five appeals of the company buying and selling edible oil for its manufacturing facility at Krishnapatnam, Andhra Pradesh. The appellant imported crude palm oil and filed Bill of Entries for warehousing prior to the arrival of the vessel at the port, which is duly permitted under the 2nd proviso to Section 46(3) of the Customs Act, 1962. Crude Palm Oil is subject to ad-valorem duty of customs based on its tariff value notified under Notification No. 36/2002-Cus dated 03.08.2001. The warehousing Bill of Entries were assessed under an end use based concessional rate notification. The import quantity in the warehouse Bill of Entry was declared with reference to the Bill of Lading (BL) quantity for the corresponding consignment. However, the actual shore receipts were lower than the BL quantity, therefore Department sought to charge differential duty. Consequently, Bill of Entries for home consumption was filed for a lower quantity vis-a-vis the warehoused quantity of crude oil and duty was discharged accordingly. At this stage appellants contend that the issue is no more *res Integra* and has been decided in the matter of MRPL Vs CC reported at 2015 (323) ELT 433 and which is also been upheld by the Supreme Court. Further, since various judgments including Chemplast Sanmar Ltd., Vs CC, Cochin of CESTAT, Bangalore are in their favour. On the ratio emerging from concessions given by the Courts, Learned AR reiterates the findings of the impugned decision of the Commissioner. We find that the decision is no more res integra and has been decided in multiple cases and has been decided in their favour in their own case by adjudicating Order-in-Original no. 32/2019 dated 30.10.2019 Department has not gone in appeal against the order.

2. In view of the foregoing decisions, we find the appeals are allowable and the same are accordingly allowed with consequential relief.

3. Appeals allowed.

(Dictated and pronounced in open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

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