

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA**

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 75320 of 2021

(Arising out of Order-in-Appeal No. KOL/CUS(PREV)/AKR/27/2021 dated 08.01.2021 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Agro Tech Foods Limited

31, Saraojini Devi Road, Secunderabad,
Telangana – 500 003

: Appellant

VERSUS

Commissioner of Customs

LCS Petrapole, Bongaon,
West Bengal

: Respondent

APPEARANCE:

Shri Rajeev Kumar Agarwal, Advocate for the Appellant

Shri Tariq Sulaiman, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)

HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 77174 / 2024

DATE OF HEARING / DECISION: 22.10.2024

ORDER: [PER SHRI ASHOK JINDAL]

The appellant is in appeal against the impugned order wherein the Ld. Commissioner (Appeals) has dismissed the appeal filed by the appellant holding that the same is barred by limitation in terms of Section 128(1) of the Customs Act, 1962 as the appeal has been filed beyond the prescribed time-limit of sixty days from the date of communication of the order.

2. Heard the parties and have gone through the facts of the case.

3. In this case, the Bill of Entry was filed by the appellant on 30th September, 2019, assessment of the same was done on 19th October, 2019 and out-of-charge was given to the appellant on 24th October, 2019. Therefore, an appeal was required to be filed by the appellant within a period of sixty days in terms of Section 128(1) of the Customs Act, 1962. Accordingly, the last date for filing of the appeal works out to 23rd December, 2019.

3.1. We observe that on the said day, the appellant filed the appeal before the Ld. Commissioner (Appeals).

4. As the facts are not in dispute, in these circumstances, we find that the Ld. Commissioner (Appeals) had fallen in error while dismissing the appeal on limitation. Accordingly, we set aside the impugned order and remand the matter back to the Ld. Commissioner (Appeals) to pass an order on merits within a period of sixty days from the date of communication of this Order.

5. The appeal is disposed of accordingly.

(Dictated and pronounced in the open court)

Sd/-

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)