IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH - COURT NO.2

Customs Appeal No.75596 of 2020

(Arising out of Order-in-Original No.05/CUS/CC(P)/WB/2020-21 dated 25.09.2020 passed by Commissioner of Customs (Prev.), West Bengal.)

M/s. Neelkanth Mahadev International
(83, G.T. Road, Samaddar Building, Burdwan-713101.)

...Appellant

VERSUS

Commissioner of Customs (Preventive), West Bengal, Kolkata
.....Respondent
(Custom House, 3rd Floor, 15/1, Strand Road, Kolkata-700001.)

WITH

(i) Customs Appeal No.75597 of 2020 (Shri Anil Pahariya, Partner, M/s. Neelkanth Mahadev International vs. Commissioner of Customs (Preventive), West Bengal, Kolkata);
(ii) Customs Appeal No.75598 of 2020 (Shri Raj Kumar Agarwal, Partner, M/s. Neelkanth Mahadev International vs. Commissioner of Customs (Preventive), West Bengal, Kolkata);
(iii) Customs Appeal No.75122 of 2021 (Commissioner of Customs (Preventive), West Bengal, Kolkata vs. M/s. Neelkanth Mahadev International);

(iv) Customs Appeal No.75123 of 2021 (Commissioner of Customs (Preventive), West Bengal, Kolkata vs. Shri Anil Pahariya, Partner, M/s. Neelkanth Mahadev International);

(v) Customs Appeal No.75124 of 2021 (Commissioner of Customs (Preventive), West Bengal, Kolkata vs. Shri Raj Kumar Agarwal, Partner, M/s. Neelkanth Mahadev International);

(vi) Customs Appeal No.75125 of 2021 (Commissioner of Customs (Preventive), West Bengal, Kolkata vs. M/s. PMI Logistics, Customs Broker);

(Arising out of Order-in-Original No.05/CUS/CC(P)/WB/2020-21 dated 25.09.2020 passed by Commissioner of Customs (Prev.), West Bengal.)

APPEARANCE

Shri Saurabh Bagaria, Advocate for the Appellant (s)/ Party (s)

Shri Faiz Ahmed, Authorized Representative for the Respondent/Revenue

CORAM: HON'BLE SHRI R. MURALIDHAR, MEMBER(JUDICIAL)
HON'BLE SHRI RAJEEV TANDON, MEMBER(TECHNICAL)

FINAL ORDER NO. 76220-76226/2025

DATE OF HEARING : 09.04.2025
DATE OF DECISION : 08.05.2025

Per : RAJEEV TANDON :

The instant appeal is filed by the appellant against the Order-in-Original No. 05/CUS/CC(P)/WB/2020-21 dated 25.09.2020 passed by Commissioner of Customs (Preventive), Kolkata confirming a demand of Rs.53,92,169/- under Section 28(8) of the Customs Act[1] together with interest under section 28AA, besides imposing a penalty of Rs.5,40,000 jointly and severally on M/s. Neelkanth Mahadev International, Shri Anil Pahariya, Shri Rajkumar Agarwal – the latter two being partners of the importing firm. The order also directs

1 The Act

confiscation of 200 metric tonnes of Fortified Refined Palm Olien imported vide subject two Bills of Entry. The same was allowed redemption on payment of redemption fine of Rs. 40.00 lakh. An amount of Rs.27,75,000/- realised on account of sale of 37 metric tons of Rice Bran Oil in terms of order dated 13 11. 2019 passed by Calcutta High Court was also ordered to be appropriated.

2. Briefly stating the importer vide Bill of Entry No. 705999 dated 13.09.2018 and Bill of Entry No. 705154 dated 19.09.2018, imported 200 metric tons of refined palm olien from Bangladesh, claiming benefit under South Asian Free Trade Agreement(SAFTA). At the time of import, the appellant produced before the authorities, the Country of Origin (COO) certificate as issued by the Bangladeshi authorities, seeking exemption from payment of basic customs duty.

3. The learned Counsel for the appellant has submitted that the appropriate authorities of the exporting country, duly certified and issued two certificates of Country of Origin for the import of the said consignments of Palm olien (100MT each). The said country of origin certificates have been placed in the appeal papers at page 72 and page 90 for ready reference. They are scanned and reproduced herein below, as crux of the dispute lies with their contents.

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CERTIFICATE OF ORIGIN
(SOUTH ASIAN FREE TRADE AREA)

1. Goods consigned from (exporter's business name, address, country):
SBABNAM VEGETABLE OIL INDUSTRIES LTD.
T.K. BHABAN, 13 KAWRAN BAZAR,
DHAKA-1215, BANGLADESH.

Reference No. EPB/TEI/Other/ 2570

SAARC

SOUTH ASIAN FREE TRADE AREA (SAFTA)
(combined declaration and certificate)

Issued in BANGLADESH
(country)

see notes overleaf

2. Goods consigned to: (Consignee's name, address,
83, GT ROAD, SAMMADDER BUILDING,
BURDWAN (WEST BENGAL)-713101
FSSAI NO. 10013031002636

3. Means of Transport and route (as far as known) BY TANKER
TARABO, NARAYANGONJ, BANGLADESH
GHOJADANGA, INDIA

4. For Official use

5. HS code.	6. Marks and numbers of packages	7. Number and kind of packages: description of goods	8. Origin criterion (see notes overleaf)	9. Gross Weight or other quantity.	10. Number and date of invoices	11. f.o.b value in US $
1511.90.90	100 M.T. IN TANKER/ LOOSE	FORTIFIED REFINED PALM OLEIN TT NO:0188SMI00003519 DATE:06.09.2018 EXP NO:01980010618 DATE:10.09.2018	"C"	GROSS WT: 100,000 KGS NET WT: 100,000 KGS	SV-EX-CI-92 DATE: 10.09.2018	US$ 83,000.00 (US DOLLAR EIGHTY THREE THOUSAND ONLY)

9/9/18

P. T. BHUTIA
Assistant Commissioner of Customs
Ghojadanga L.C.S.

12. Declaration by the exporter:
The undersigned hereby declares that the above details and statements are correct: that all the goods were produced in

BANGLADESH
(country)

and that they comply with the origin requirements specified for those goods in SAFTA for goods exported to

INDIA
(Importing country)

Md. Akhtar Kamal
Sr. General Manager (Accounts & Finance)
Shabnam Vegetable Oil Industries Ltd.

DHAKA, 11.09.2018
Place and date, signature of authorized signatory

13. Certificate
It is hereby certified on the basis of control carried out, that the declaration by the exporter is correct.

Md. [illegible]
Research Officer
Export Promotion Bureau
Dhaka, Bangladesh

13 SEP 2018

Place and date, signature and stamp of certifying authority

Scanned with CamScanner

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CERTIFICATE OF ORIGIN
(SOUTH ASIAN FREE TRADE AREA)

1. Goods consigned from (exporter's business name, address, country) Meghna Edible Oils Refinery Limited Head Office: House # 15, Road # 34, Gulshan-1, Dhaka-1212, Bangladesh, Factory: Unit-2, Plot #17, 18, 26, 27, 30, Meghna EZ, Sonargaon, Narayangonj, Bangladesh.	Reference No. EPB/18/Other/8309 SOUTH ASIAN FREE TRADE AREA (SAFTA) (combined declaration and certificate) Issued in BANGLADESH (country)
2. Goods consigned to (Consignee's name, address, country) Neelkanth Mahadev International 83 GT Road, Sammaddar Building, Burdwan-713101, IEC No: 0214005151 PAN No:AAKFN6027E, India.	see notes overleaf
3. Means of Transport and route (as far as known) BY TRUCK TO Ghojadanga Land Customs Station, India. THROUGH Bhomra Land Customs Station, Bangladesh.	4. For Official use

5. HS code	6. Marks and numbers of packages	7. Number and kind of packages ; description of goods	8. Origin criterion (see notes overleaf)	9. Gross Weight or other quantity	10. Number and date of invoices	11. f.o.b value in US $ C&F, Ghojadanga
Exporting Country H.S Code 1511.90.90 Importing Country ITC Code: 1511.90.20	In Tanker / Loose	Refined Palm Olein EXP NO. 3503-01496-18 DATE: 09.09.2018 TT. NO. 278600235HB DATE: 24.08.2018	"B"	GROSS WEIGHT 100.000 MT NET WEIGHT 100.000 MT	CI-MEORL/TRAD/186/2018 DATE: 06.09.2018	$88,200.00 U.S. DOLLAR EIGHTY EIGHT THOUSAND TWO HUNDRED ONLY)

13/9/18
P. T. BHUTIA
Assistant Commissioner of Customs
Ghojadanga L. C. S.

12. Declaration by the exporter : The undersigned hereby declares that the above details and statements are correct : that all the goods were produced in BANGLADESH (country) and that they comply with the origin requirements specified for those goods in SAFTA for goods exported to INDIA (importing country) Dhaka, 09.09.2018 Mahbubur Rahman Shabbir, General Manager, Foreign Trade Place and date, signature of authorized signatory	13. Certificate It is hereby certified on the basis of control carried out, that the declaration by the exporter is correct. Md. Rafiqul Islam Research Officer Export Promotion Bureau Dhaka, Bangladesh 11 SEP 2018 Place and date, signature and stamp of certifying authority

4. During the course of the submissions, the learned Counsel for the appellant submits that once the requisite duties were paid and the goods examined and test reports received, the appellant cleared the consignments from the private parking area, on the basis of the file notings of the Inspector of Customs, Ghozadanga LCS, considering the same as clearance orders.

5. It is their case that on receiving certain information from DRI, the department initiated investigations into the imports of refined Palmolien from Bangladesh. A show cause notice dated 26.02.2019 was issued to the appellants alleging that the COO certificates furnished by the appellant number EPB – 18/Other/8309 dated 11.09.2018 and EPB – 18/Other/8510 dated 13.09.2018 did not give the value of non-originating material expressed as a percentage of FOB value of the products. It is therefore the case of the revenue that the appellant was not entitled to benefit of SAFTA, read with the relevant exemption notification for the subject imports.

6. The Ld. Counsel for the appellant, vehemently argues that because of an anomaly, if any, in the certificate issued by the exporting nation, their interest cannot be prejudiced. He further adds that the annexure to the COO certificates gives proper figures relating to value addition and therefore, annexures thereto speak for themselves and duly evidence the mark up valuation of the imported

goods, the fact of proper quantification and valuation of the subject imports. The ld.Counsel therefore prays for setting aside the impugned order as no case of confiscation, duty payment or penalty imposition is made out. He categorically asserts that the subject certificates were issued by the appropriate authority and have not been found to be false or fraudulent by the Indian authorities, and under such circumstances, the customs department was obliged to accept the COO certificates issued by the Proper Authority empowered in terms of SAFTA agreement. The ld. Counsel for the appellant also questions the jurisdiction of the customs authorities to doubt the veracity of the said certificates.

7. The ld.AR reiterates the order of the lower authority and justifies the same as correct and in accordance with law. He submits that with no value addition percentage having been indicated, SAFTA benefit cannot be extended to the appellants.

8. Having heard the two sides and perused the case records, it turns out from the facts on record that the appellant post assessment and payment of duty, however, prior to the goods being given out of charge, of their own accord, removed the goods from the notified area. To this admitted contention by the appellant, it is their case that they were under a bonafide belief that the consignments were ready for clearance upon payment of duty and that there was no reason to not

believe that the COO certificate was incomplete or issued improperly as the same was given by the appropriate authority of the exporting nation and which the Indian authorities were bound to accept as per the mutual agreement between the two countries.

9. The case of the revenue in short is that in pursuance of a communication dated 26.10.2018 received from the headquarters, to ensure compliance with statutory and procedural requirements, action for verification of imported edible oils pending clearance at Ghojadanga LCS was initiated. However, it was noticed that the two consignments imported by the appellant Neelkanth Mahadev International, which had not been given out of charge orders under Section 47 (1) contained in 12 Indian tankers could not be located at the specified area. When the department quizzed the Custom Broker in the matter, it was informed that the said 12 tankers had been taken to another place for safe keeping without any intimation by the importer. In the instant case, the examination of the cargo was completed on 17.09.2018, for import of 100 MTs of Refined Palm Olien imported vide Bill of Entry No. 705999 dated 13.09.2018, sample also drawn on the same day, test report received on 24.09.2018 and applicable IGST deposited in the bank. As for the second shipment of hundred metric ton of Palm Oil imported under cover of Bill of Entry No. 705154 dated 19.09.2018, samples were also drawn on the same day, report received on 26.09.2018 and applicable IGST deposited in the bank. Upon receipt of the test reports, the department records that the

appellant approached the customs authorities for clearance of 12 tankers from Samantha Parking Ghoja Danga, but the officers of Ghoja Danga – LCS informed them that the consignment cannot be cleared at the moment because of further investigations initiated by the DRI. On 08.11.2018, the authorities went into the parking area, it was noticed that the 12 tankers were not physically parked there and immediately the matter was informed to the importer, who admitted that they had taken away the 12 tankers loaded with imported refined Palm Olien. It is, therefore the department‟s case that the subject consignments were taken away without following the proper procedure and irregularly removed from the customs area. The partner of the importing firm, Anil Pahariya admitted that the said 12 tankers were removed from parking area in Ghoja Danga, as per his instructions. He further states that he was not aware of further formalities, if any, required before removal of imported goods from the customs area; having paid the IGST as applicable, he assumed that they were eligible to take away the goods. Moreover, it is his contention that they were first time importers.

10. To appreciate the facts of the matter, it would be appropriate to state the legal provisions as applicable to the issue at hand.

<u>Legal provisions:-</u>

(a) Section 46 of the Customs Act, 1962 provides that the importer of any goods, other than goods intended for transit or transshipment, to make entry thereof by presenting electronically to the proper officer a bill of entry for home consumption or warehousing in the prescribed form and sub section (4) provides that the importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry.

(b) Section 47 of the Customs Act, 1962 provides that where the proper officer is satisfied that any goods entered for home consumption are not prohibited and the importer has paid the import duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption.

(c) Section 42 of the Customs Act, 1962 provides that the person in charge of conveyance which has brought any imported goods at a Customs station shall not cause or permit the conveyance to depart from the Customs area until a written order to that effect has been given by the proper officer.

(d) Rules of Determination of origin of goods under the SAFTA, 2006 provides that *"Product originating in the exporting Contracting State shall be sufficiently worked or processed for the purpose of granting originating status if they fulfill the following conditions:*

(i) The final product is classified in a heading at the four digit level of the Harmonized Commodity Description and Coding System differently from those in which all the non-originating materials (Non-originating material means material originating from countries other than Contracting States and material of undermined origin) used in its manufacture are classified and

(ii) Products worked on or processed as a result of which the total value of the materials, parts or produce originating from other countries or of undermined origin does not exceed 60% of the FOB value of the product produced or obtained and the final process of manufacture is perfound within the territory of the exporting Contracting State"

Rule 8 (b) of Determination of Origin of Goods under the Agreement on SAFTA says that:

"Notwithstanding the condition laid down in paragraph (a) of this Rule, the products listed in Annex., A shall be eligible for preferential treatment if they comply with Rule 8(a) or they fulfill the condition corresponding to those products as mentioned in the Annex-A."

In Annex-A to Rule 8(b) of the Determination of Origin of Goods under the Agreement on SAFTA, 2006, the CTSH 151190 is provided at Sl.No.7 as follows:

S. No.	*HS Heading/Chapter*	*Harmonized Description*	*Products Specific Rules*
(1)	*(2)*	*(3)*	*(4)*
7.	*151190*	*Other*	*CTSH & 30% DVA*

Explanatory Notes:

1. For the purposes of Rule 8(b) of the SAFTA Rules of Origin, the products listed under column (3) and corresponding to heading mentioned under column (2) would be subject to Rule specified under column (4) in the following Table.

2. The term "CTH" in column (4) below shall mean that the final product is classified in a heading at the four-digit level of the Harmonised Commodity Description and Coding System differently from those in which all the non-originating materials used in its manufacture are classified.

3. The term "CTSH" in column (4) below shall mean that the final product is classified in a heading at the six digit level of the Harmonised Commodity Description and Coding System differently from those in which all the non-originating materials used in its manufacture are classified.

4. The DVA mentioned in percentage in column (4) below shall mean the minimum value addition in the Exporting Contracting State, calculated as per the following formula :

$$DVA = \frac{\text{FOB value of the export product} - \text{value of non-originating materials}}{\text{FOB value of the export product}}$$

11. We find that the Country of Origin certificate number EPB/18/8309 dated 11.09.2018 submitted with reference to Bill of Entry number 705999 dated 13.09.209 has categorised 100 MTS of Refined Palm Oil in Category B, which indicates that the goods covered by the product met the origin criteria according to Rule 8 and it ought to be followed by the value of non-originating material expressed as a percentage of the value of the product. Likewise in respect of Bill of Entry No. 705154 dated 19.9.2018 for which Country of Origin Certificate No. EPB/18/other/851088 dated 13.9.2018 is referred to, categories the Refined Palm Olien (100 MTS) under Category C. According to the rule, in the case of products in Category C which meet origin criteria, Rule 9 is applicable. It is the contention of the department that the Category B or C, should be followed by the sum of the aggregate content originating in the territory of exporting state expressed as a percentage of FOB value of the exported product. It is therefore the revenue's case that in both the COO certificates submitted by the importer, the said requirement had not been fulfilled.

11.1 We find that the impugned two Country of Origin Certificates have been issued by one Sri Md. Rafiqul Islam, Research Officer, Export Promotion Bureau Dhaka, Bangladesh, appended to which are the certificates from the Metropolitan, Chamber of Commerce and Industry, Dhaka and Dhaka, Chamber of Commerce and Industry in respect of Certificate of Origin Nos. 8510 and 8309, dated 13.09.2018 and 11.09.2018, respectively. These certificates are backed by Commercial Invoices issued by Meghna Edible Oil Refinery Limited, Dhaka and Shabnam Vegetable Oil Industries Ltd., Dhaka. The said commercial invoices, indicate DVA as 31.07% (value of non-origination material expressed as @ of FOB Value = 68.93%) and DVA of 32.58% (value of non-origination material expressed as @ FOB Value = 67.42%) respectively. When the COO certificates are thus read along with the supporting invoices, we find that the value addition as required to be met in terms of Rule 8 & Rule 9 of Rules of Determination of Origin of Goods under South Asian Free Trade Area (SAFTA) are complied with.

12. We thus do not find any merit in the argument of the Revenue that as the value addition figures were not indicated in the impugned Certificates of Country of Origin, therefore the same were not acceptable and the goods not liable for duty concession under Notification 99/2011-CUS dated 09.11.2011. The contention of the Revenue that the appellant had with intent to evade payment of basic custom duty submitted the said certificates is completely hollow and without a basis. The said premise is not borne out of any piece of

appropriate acceptable evidence on record and is a mere a presumption on the part of the department.

13. We also do not find sufficient merit in the appellant’s contention that subsequent to payment of duty on imported goods and in terms of Section 2(14) of the Customs Act read with Section 2(23) and Section 2(25) ibid the said goods no longer remain imported goods. Be as it may, while it is not disputed that upon payment of duty leviable, the said goods had met the basic criteria of the definition of the “dutiable goods”. They however continued to be imported good, as no order of clearance for home consumption was issued. What is relevant to note is the fact that Section 46 and Section 47 of the act ibid are concerned with the import processes and clearance of such imported goods into the domestic sector (home consumption). Section 47 warrants an “order” to be made by the Proper Officer for “clearance of goods for home consumption.” Thus, removal of goods, in the absence of such an order is a clear contravention of law, and it cannot be held that all due formalities concerned with import were over, in the absence of such a certificate. Payment of duty on imported goods is one of the several acts as may be required to be satisfied, before allowing the imported goods to move out of the Customs area, into the domestic sector.

14. The appellants have used their accounting documents to establish the value addition. The same are scanned herein below.

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MEGHNA EDIBLE OILS REFINERY LTD. Fresh
(AN ENTERPRISE OF MEGHNA GROUP OF INDUSTRIES)
Head Office: Fresh Villa, House-15, Road-34, Gulshan-1, Dhaka-1212
FMCG Office: Fresh Cottage, H-48, Garib-E-Newaz Avenue, S-13, Uttara, Dhaka-1230
Telephone No. (88) 880-2-7912703, 7912718, 9889306, Fax No. 880-2-9884896
E-mail: hasnath@meghnagroup.biz Web: www.meghnagroup.biz
Factory: Meghnaghat, Sonargaon, Narayangonj, Bangladesh

Cost Break-up for production of 1,000 KG or 1 MT
Refined Palm Olein

A.	Direct Material: (Importet)				
	Name of Material	H.S. Code	Source:	Quantity:	C&F Value
1)	Crude Palm Olein	1511.10.10	Malaysia	1,000.00 KG	$ 604.00
2)	Activated Bleaching Earth	3802.90.00	China	12.50 KG	$ 5.35
			Sub. Total =	1,000.00 KG	$ 609.35
B.	Other Indirect Materials: (Local) if any		Source:	Quantity:	Value
1)	Packing Material		Local		$ -
					$ -
			Sub. Total =		$ -
C.	Prime Cost (A+B)				$ 609.35
D.	Factory Overhead:				
1)	Salary & Wages				$ 4.48
2)	Power & Fuel.				$ 5.74
3)	Others				$ 119.18
	LC Opening Charge, Commission - $ 18				
	Acceptance Commission, Confirmation Charge & Interest - $ 12.76				
	Insurance - $ 12				
	Depreciation - $ 20				
	Repair-$ 6				
	Documentation- $ 5				
	Transport (Chittagong to Narayangonj_Import Stage)				
	Transport (Narayangonj to Bhomra_Export Stage)				
			Sub. Total =		$ 129.40
E.	Total cost of production (C+D)				$ 738.75
F.	Profit				$ 145.25
G.	Sales Price (FOB) (E+F) Per MT				$ 884.00 (1 MT)

$$DVA = \frac{\text{FOB value - Value of Non-originating Materials}}{\text{FOB Value}} \times 100 = 31.07\%$$

Value of non-origination material expressed as a percentage of FOB Value = 68.93%

MEGHNA EDIBLE OILS REFINERY LTD. DHAKA

14/8/2018

Shabnam Vegetable Oil Industries Limited

"Statement of Cost Sheet for One Metric Ton Fortified Refined Palm Olein."

83.75

SL	Particulars	HS Code	Source	Qty (KG)	C&F Value $	Remarks
A.	Direct Material Cost					
	Crude Palm Olein (CPO)	1511.10.10	Malaysia	1000.000	583.00	
	Activated Bleaching Earth	3802.90.00	India	30.000	8.67	
	Less: By-products realization				(32.07)	
	Direct Material Cost -Total			1030.000	559.61	
B.	Indirect Materials					
	Packing Materials					
	Indirect Cost- Total					
C.	Prime Cost (A+B)				559.61	
D.	Factory Overhead Cost					
	Salary & Wages				4.00	
	Electricity/ Gas				5.50	
	Depreciation				5.00	
	Store Consumption				7.00	
	Total Factory Overhead				21.50	
E.	Total Cost of Production (C+D)				581.11	
F.	Freight, Documentation and Other Cost				233.00	
	Total Cost				814.11	
	Profit				15.89	
G.	Sales Price / FOB Value Per MT.				830.00	

$$\text{DVA} = \frac{\text{FOB Value-Value of Non-Originating Materials}}{\text{FOB Value}} \times 100 = 32.58\%$$

অঙ্গীকারনামাঃ

আমি মোহাম্মদ আকতার কামাল, সিনিয়র জেনারেল ম্যানেজার (একাউন্টস এন্ড ফাইনান্স), শবনম ভেজিটেবল অয়েল ইন্ডাষ্ট্রিজ লিমিটেড, এই মর্মে অংগীকার করছি যে, এই কস্ট শীট সঠিক এবং নির্ভুল, এই কস্ট শীট যদি ভুল কিংবা সঠিক নয় এরূপ কিছু প্রমাণিত হলে এবং ভবিষ্যতে এই কস্ট শীট নিয়ে কোন প্রশ্নের সম্মুখীন হলে, ইপিবি কর্তক আমাদের প্রতিষ্ঠানের বিরুদ্ধে যেই ব্যাবস্থা নিবেন তা আমরা মেনে নিতে বাধিত থাকিব।

Shabnam Vegetable Oil Industries Ltd.

Authorised Signature

Md. Akhtar Kamal
Sr. General Manager (Accounts & Finance)
Shabnam Vegetable Oil Industries Ltd.

T. K. Bhaban (2nd Floor), 13 Kawran Bazar, Dhaka-1215, Bangladesh. Phone : 9144136, 9115210, 9145871, 9142876, Fax : 88-02-9143211
Telefax: 038957-88400, e-mail: svoil@tkgroupbd.com, Web: www.tkgroupbd.com

It can be seen there from the value addition in respect of both the cases is well over 30%, as noted by us in para 11.1 above.

15. We find that the said two certificates of Country of Origin read along with their supporting invoices, do satisfy the percentage of value addition as required in terms of the Rules of Origin. The fact of non-indication of the percentage on the body of the certificate cannot be held against the appellant, as they are not the certificate issuing authorities. As long as the importer-assessee/appellant is able to justify and meet the satisfaction of the norms, along with the cost sheets that have been furnished, which indeed are issued by the overseas suppliers in the country of export viz. Megha Edible Oil Refinery Limited, Dhaka and Shabnam Vegetable Oil Industries., Dhaka, we are of the view that the appellant has satisfied the norms pertaining to value addition. They are therefore eligible to avail of duty concession in terms of Notification No. 99/2011-CUS dated 9 11. 2011.

16. The next question now therefore remains, with regard to Section 47(1) of the Customs Act, wherein the proper officer is required to make an order permitting clearance of goods for home consumption. Such an order in the present matter admittedly had not been issued. The appellant has pleaded ignorance being a first time importer and having paid the duty amount (IGST), were of the view that the import

norms and procedures had been complied with. *Ignorantia Juris Non Excusat* – thus.

17. No doubt the appellant has admitted to their lapse in the matter and it is common knowledge that ignorance of law is no excuse, at the same time we find that the department has no explanation for having continued to hold on to the good in custody, well after the duty payment was done without assigning any reason or intimating the importer to the said effect. Not having given out of charge for nearly two months, quietly putting the blame on the appellant/importer for removal of said goods from the specified area (private parking space), is indeed quite bizarre and unjustified. In the least, the importer ought to have been intimated in writing, for the hold up of clearance with reasons thereto. No such action was taken by the department.

18. In view of our discussions above, we are of the view that benefit of SAFTA exemption notification is rightly admissible to the imported goods. Therefore, under the circumstances, no question of confiscation of the goods and their release upon redemption and payment of differential duty, is called for . The violation of removal of goods, without Out of Charge (OOC) order however remains. However, considering the fact of their being first time importers and no revenue loss was caused to the Revenue as a result of the aforesaid action of the appellants and that the Revenue had failed to either give Out of Charge or communicate to the importer about the reasons for hold up

of clearance or detention etc. of duty paid goods, for almost two months, we refrain from imposing any penalties in the matter on the appellants.

19. The order of the lower authority is therefore set aside and the appeals, allowed with consequential relief, if any as per law.

(Order pronounced in the open court on 08.05.2025.)

Sd/	Sd/
(RAJEEV TANDON)	**(R. MURALIDHAR)**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

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