

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH – COURT NO. 1
Customs Appeal No. 76059 of 2024**

(Arising out of Order-in-Original No.CCP/NER/21/2024 dated 02.05.2024 passed by
Commissioner of Customs(Preventive), Shillong)

M/s AWL Agri Business Ltd. : **Appellant**
Fortune House, Nr. Navrangpura Railway Station, Navrangpura,
Ahmedabad-380009.

VERSUS

Commissioner of Customs(Preventive), : **Respondent**
110 MG Road, Shillong, Meghalaya-793001.

APPEARANCE:

Shri Rahul Dhanuka, Advocate for the Appellant

Shri A.K.Chowdhury, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. 77960/ 2025

DATE OF HEARING :11.12.2025

DATE OF DECISION:11.12.2025

Order : [Per Shri Ashok Jindal]

The appellant is in appeal against the impugned order.

2. The facts of the case are as under:

2.1. M/s. Adani Wilmar Limited (hereinafter referred to as "the Appellant") is engaged in the business of manufacturing different types of edible oils, acid oil, soya gum, deo distillate etc. The company for the said purpose, imported 1,51,963 kilograms of Fortified Soyabean oil (hereinafter referred to as the "subject goods") falling under the Sub-heading 1507 90 10 of the first schedule of the Customs tariff Act, 1975 (hereinafter referred to as the "Tariff Act") from M/s. Bangladesh Edible Oils Ltd. (hereinafter referred to as the "Exporter"), Bangladesh during the July, 2018.

2.2 The subject goods imported by the Appellant were accompanied by a valid COO bearing no. EPB/18/Others/6214 dated 05.07.2018 (Pg 88/PB) issued by the Export Promotion Bureau Dhaka, Bangladesh Origin (hereinafter referred to as the "issuing authority") issued under South Asian Free Trade Area Agreement (hereinafter referred as "SAFTA") . The Appellant initially filed Warehousing Bill of Entry No. 659333/IMP/WH/AGT-LCS/2017-18 dated 18th July 2018 and thereafter filed Ex- Bond Bill Entry bearing No. 659346/IMP/EX-BOND/AGT-LCS/2018-2019 dated 01.08.2018 by claiming the BCD exemption in terms of Notification No. 99 on the strength of COO. The customs authority prima facie found that the subjects goods qualified for preferential treatment under SAFTA as the COO seemed genuine and proper and the consignment was given final clearance as per Section 68 of the Act on 03.08.2018.

2.3 The flow of events post final clearance of the subject goods by the Appellant is tabulated here-in-below:

Date	Event
06.09.2018	Basis a communication dated 31.08.2018 and instruction No. 31/2016 –Cus dated 12.09.2016 and Circular No. 01/2018 dated 29.08.2018, the Assistant Commissioner, Agartala Land Customs Station vide his communication dated 06.09.2018 shared 6 COOs with Superintendent (Valuation), office of the Commissioner of Customs Preventive, Shillong for verification of the same.
01.10.2018	The Commissioner of Customs Preventive, Shillong forwarded 6 COOs to CBIC.
11.11.2019	CBIC informed Bangladesh authorities that verification report received in respect of 8 COOs (including the 6 COOs) was found deficient on many counts and no clarification was provided for non-mentioning of mandatory value of non-originating material as a percentage of the FOB value.
04.12.2020	CBIC vide its letter dated 04.12.2020 wrote to

	Commissioner of Customs, Preventive, Shillong that no response received from the issuing authority, assessment of 6 COOs may be finalized.
19.12.2020	Letter by Commissioner of Customs Preventive, Shillong to Assistant Commissioner, Agartala Land Customs Station to finalize the assessment of COO.

2.4 The Appellant was served with a demand cum show cause notice bearing reference GEN/ADJ/COMM/288/2023-LCS-AGTL-Div-AGTL-Commrte-Shilong No. 1/1171655/2023 dated 08.05.2023 (hereinafter referred to as "impugned SCN") by the Assistant Commissioner of Customs (Preventive), Land Customs Station, Agartala alleging since the COO's could not be verified by the issuing authority in time, the same is liable to be treated as disapproved and the preferential treatment is liable to be withdrawn. It further alleged that the Appellant has deliberately submitted false documents to the department and has colluded with the exporter.

2.5 The Appellant, vide letter dated 05.06.2023, requested the exporter to take up the matter with the Hon'ble High Commission of India, Dhaka, to facilitate a response to CBIC. Pursuant to such request, the exporter has inter alia shared the cost sheet basis which the COO has been issued, and which categorically indicates Domestic Value Addition of 30.46%. Further, through letters dated 07.06.2023 and 03.07.2023, the Appellant requested the Ld. Adjudicating Authority and CBIC, respectively, to keep the proceedings in abeyance until the High Commission of India, Dhaka concludes the matter.

2.6 The Appellant thereafter filed its reply to SCN vide its letter dated 11.09.2023. The Commissioner of Customs Preventive, Shillong disregarded the

contentions of the Appellant and passed the order bearing No. CCP/NER/21/2024 dated 02.05.2024 (hereinafter referred to as "impugned Order") confirming the demands raised in the impugned SCN.

2.7 Hence the instant Appeal.

3. The Ld. Consultant for the appellant submits that the condition under Notification No. 99 has been duly complied with by the appellant and thus, denial of Preferential rate of duty is wholly unsustainable. It is his submission that the appellant has obtained Country of Origin Certificate issued by the issuing authority in the format prescribed in the "SAFTA Rules" to establish that origin of goods imported by him. Since the subject goods imported by the appellant from Bangladesh the applicable Rule was Rule 10 of the Origin Rules, and therefore in Box 8, letter "D" followed by the value of non-originating material expressed as a percentage of the f.o.b value of the product was required to be reflected. The COO Certificate dated 5th July, 2018 adduced by the Appellant duly reflected Letter D followed by 69.54%, thereby imply that Domestic Value Addition (DVA) was more than 30%. Besides, the cost sheet basis which COO was issued clearly reflects a Domestic Value Addition (DVA) of 30.46% for the subject goods.

4. Further, the classification of subject goods at a six-digit level is 150790 whereas the classification of crude soyabean oil imported by the Exporter is 150710. Hence, even the subject product is classified in a heading at the six-digit level differently from those in which all the non-originating materials used in its manufacture are classified and it is not alleged that COO certificate was not genuine.

5. As authenticity of the COO is not disputed when the COO has neither been withdrawn nor cancelled by the issuing authority, denial of benefit of exemption is wholly unsustainable. To support this contention he relied on the decision of Kanpur Edibles Private Ltd & Ors. Vs. CC (Preventive), Kolkata [2024 (5) TMI 576] . He submitted the entire proceedings are vitiated by errors of facts and law as also principles of natural justice in as much as the same is based entirely on the assumption, presumption, conjectures and surmises. In view of this he submits that impugned order is to be set aside.

6. Ld. Authorized Representative supported the impugned order.

7. Heard the parties. Considered the submissions.

8. We find that in this case it is an admitted fact that the appellant has imported the goods in question which were accompanied by a valid country of origin certificate issued by the Export Promotion Bureau, Dhaka, Bangladesh issued under "SAFTA" . Admittedly in this case the Country of Origin certificate has not been rejected by the authorities below and it is not said that same is fake or not genuine. In that circumstances, relying on the decision of this Tribunal in the case of Kanpur Edibles Private Ltd. wherein this Tribunal observed as under:

" We further take note of the fact that it is not the case of the Revenue that the certificate issued by the exporter is not genuine or correct and the verification report given by Deputy Director, EPB, Bangladesh is not correct. The certificate of country of origin and the verification report cannot be doubted unless and until, the same is proved fake by the Revenue. No such allegation in the show cause

notice that the certificate of country of origin provided by the exporter and the verification report are fake. In that circumstances, the benefit of exemption Notification cannot be denied to the appellant. "

Further, in this case no conclusive report has been obtained by the Revenue from the authorities who have issued certificate of country of origin to the appellant. In that circumstances, relying on the decision of this Tribunal in the case of Kanpur Edibles Private Ltd. (Supra) the benefit of the exemption Notification No 99/2011 dated 09.11.2011 cannot be denied to the appellant.

10. In view of this, we set aside the impugned order and allow the appeal with consequential relief, if any.

(Operative part of **the order was pronounced in open court**)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)