

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

REGIONAL BENCH - COURT NO.2

Customs Appeal No.76078 of 2023

(Arising out of Order-in-Appeal No.KOL/CUS(PORT)/KS/662/2023 dated 06.09.2023
passed by Commissioner of Customs (Appeals), Kolkata.)

M/s.Adrika Health Food Pvt. Ltd.

(12/1, Satyendranath Majumder Sarani, Manohar Pukur Road, Kolkata-700026.)

...Appellant

VERSUS

Commissioner of Customs (Port), Kolkata

(15/1, Strand Road, Custom House, Kolkata-700001.)

.....Respondent

APPEARANCE

Shri S.K.Mohapatra, Advocate for the Appellant (s)

Shri S.Chitkara & Shri S.Debnath, Authorized Representatives for the
Revenue

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

HON'BLE SHRI RAJEEV TANDON, MEMBER(TECHNICAL)

FINAL ORDER NO. 75076/2026

DATE OF HEARING :16.01.2026

DATE OF DECISION :16.01.2026

Per :R. MURALIDHAR :

The Appellant has imported four consignments of edible oil between the period from August 2021 to November 2021 from Vietnam. They have classified the goods as Rice Bran Oil and claimed Customs Duty Exemption. The Customs Department after getting the goods tested, found that the oil is not of edible grade. Subsequently, on representation Food Safety and Standards Authority of India [FSSAI], has given clearance to the Appellant to get hold of the consignments upon giving undertaking that the Oil will be marketed only after proper refining. The lower authorities have confirmed the

Customs Duty demand along with interest and penalty. They have also confiscated the goods in question subject to release on payment of the decided Redemption Fine. Being aggrieved by the impugned order, the appellant is before the Tribunal.

2. The Ld.Advocate appearing on behalf of the Appellant submits that they were under the bona fide belief that they are classifying the goods correctly under Rice Bran Oil since all the documents like commercial invoice, Bill of Lading, Certificate of Origin etc., were showing the goods as Rice Bran Oil. However, it was pointed out by the Customs that the goods being inedible when it is imported and hence, would not qualify for the duty exemption. The FASSAI also held that the goods can be cleared only when an undertaking is given by the appellant towards marketing the same after refining the imported oil. The Appellants have agreed to the proposal. After this, they have paid the required Customs duty and cleared the goods. The LdCounsel submits that they are not contesting the Customs duty paid along with interest. He is before the Tribunal only praying that the penalty imposed may be set aside and the redemption fine imposed consequent to the confiscation may be set aside. He takes us through to commercial invoices issued in respect of all the four consignments along with the Certificates of Origin to show that the Appellant did not indulge in any mis-declaration which may invite the confiscation and penalty imposed on them. He further submits that without any hesitation, the Appellant has paid the Customs duty demanded along with the interest thereon, which is not being contested by them. In view of these submissions, he prays that the confiscation and consequent redemption fine may be set aside along with the penalties imposed on them.

3. The Ld.AR for the Department submits that the Appellant has declared the goods as Rice Bran Oil concealing the fact that this was not refined and hence was not edible. The duty exemption is available only for edible grade oil. Therefore, Customs had to undertake the

testing. After the Test Report, it was found that the goods were not edible. Subsequently, the Appellant filed their Appeal before FASSAI, after which conditional clearance by FASSAI was granted, subject to the appellant undertaking to refine the oil before it is marketed. Only after these actions, the Appellant paid the Customs duty. Therefore, these facts show that the charge of mis-declaration can be fastened on the Appellant. Accordingly, he justifies the imposition of redemption fine and penalty on the Appellant.

4. Heard both sides and perused the documentary evidence placed before us.

5. Sample Copies of the document of one consignment are reproduced below :-

SETHIA HEMRAJ RICE OIL COMPANY LIMITED
LOT I-3 ZONE C EXTENDED, SA DEC INDUSTRIAL ZONE, TAN KHANH DONG COMMUNE,
SA DEC CITY, DONG THAP - 81000, VIETNAM

Commercial invoice				
BENEFICIARY: SETHIA HEMRAJ RICE OIL COMPANY LIMITED LOT I-3 ZONE C EXTENDED, SA DEC INDUSTRIAL ZONE, TAN KHANH DONG COMMUNE, SA DEC CITY, DONG THAP - 81000, VIETNAM	INVOICE NO:	SH2021/002		
	DATE :	4-Nov-2021		
APPLICANT: ADRIKA HEALTH FOOD PRIVATE LIMITED 4, CHOWRINGHEE LANE BLOCK-III, 6TH FLOOR KOLKATA - 700016, INDIA	SALES CONTRACT NO.:	CRBO2021/E002		
	DATE:	9-Oct-2021		
PORT OF LOADING: HOCHIMINH PORT, VIETNAM	PAYMENT:	CAD	TERM OF DELIVERY: CIF KOLKATA, INDIA	
	BILL OF LADING:		ORIGIN: VIETNAM	
PORT OF DISCHARGE:		KOLKATA, INDIA		
FULL DESCRIPTION OF GOODS	NET WEIGHT	UNIT	UNIT PRICE (USD/MT)	TOTAL AMOUNT (USD)
RICE BRAN OIL-OTHER THAN REFINED	297.950	MT	925.00	275,603.75
TOTAL	297.950			275,603.75
AMOUNT IN WORDS: US DOLLARS TWO HUNDRED SEVENTY FIVE THOUSAND SIX HUNDRED THREE AND SEVENTY FIVE CENTS ./.				
H.S. CODE: 1515.90.00 ITC CODE: 1515.90.99				
SETHIA HEMRAJ RICE OIL COMPANY LIMITED  Sethia AUTHORISED SIGNATORY				

SETHIA HEMRAJ RICE OIL COMPANY LIMITED
LOT I-3 ZONE C EXTENDED, SA DEC INDUSTRIAL ZONE, TAN KHANH DONG COMMUNE, ..
SA DEC CITY, DONG THAP - 81000, VIETNAM
Packing List

BENEFICIARY: SETHIA HEMRAJ RICE OIL COMPANY LIMITED LOT I-3 ZONE C EXTENDED, SA DEC INDUSTRIAL ZONE, TAN KHANH DONG COMMUNE, SA DEC CITY, DONG THAP - 81000, VIETNAM		INVOICE NO: SH2021/002 DATE : 4-Nov-2021 SALES CONTRACT NO.: CRBO2021/E002			
APPLICANT: ADRIKA HEALTH FOOD PRIVATE LIMITED 4, CHOWRINGHEE LANE BLOCK-III, 6TH FLOOR KOLKATA - 700016, INDIA		PAYMENT: CAD	TERM OF DELIVERY: CIF KOLKATA INDIA		
PORT OF LOADING: HOCHIMINH PORT, VIETNAM		BILL OF LADING:	ORIGIN: VIETNAM		
PORT OF DISCHARGE: KOLKATA, INDIA					
FULL DESCRIPTION OF GOODS		NO. OF PACKAGES (FLEXIBAGS)	NET WEIGHT (KGS)	GROSS WEIGHT (KGS)	
RICE BRAN OIL-OTHER THAN REFINED		14	297,950.000	299,350.000	
NO.	CONTAINER NO. / SEAL NO.				
1	TCKU3066070	UCS20210219	1	20,210.00	20,310.00
2	GLDU3044723	UCS20210206	1	21,400.00	21,500.00
3	TCKU1458940	UCS20210201	1	21,420.00	21,520.00
4	GATU0169978	UCS20210215	1	20,940.00	21,040.00
5	PCIU3123837	UCS20210207	1	21,120.00	21,220.00
6	MCSU2037347	UCS20210220	1	20,980.00	21,080.00
7	TDRU2366602	UCS20210203	1	21,060.00	21,160.00
8	XINU1560211	UCS20210150	1	21,550.00	21,650.00
9	TDTU3350505	UCS20210008	1	21,110.00	21,210.00
10	CRXU3023522	UCS20210202	1	21,760.00	21,860.00
11	TDRU2728390	UCS20210009	1	22,160.00	22,260.00
12	MSKU3626117	UCS20210021	1	21,010.00	21,110.00
13	CRSU1169584	UCS20210148	1	21,540.00	21,640.00
14	GLDU3324302	UCS20210149	1	21,690.00	21,790.00
TOTAL		14	297,950.00	299,350.00	
FOR SETHIA HEMRAJ RICE OIL COMPANY LIMITED TNHH DẦU GẠO SETHIA HEMRAJ RICE OIL COMPANY LIMITED TỈNH DONG THAP Sethia AUTHORISED SIGNATORY					

SHIPPER (Name and Full Address) SETHIA HEMRAJ RICE OIL COMPANY LIMITED LOT 1-3 ZONE C EXTENDED, SA DEC INDUSTRIAL ZONE, TAN KHANH DONG COMMUNE, SA DEC CITY, DONG THAP - S1000, VIETNAM		B/L No.: UNISGN20215522	
CONSIGNEE (Name and Full Address) ADRIKA HEALTH FOOD PRIVATE LIMITED 4, CHOWRINGHEE LANE BLOCK-III, 6TH FLOOR KOLKATA - 700016, INDIA GSTN: 19AAICA1169R1ZW IEC: 0212026259 PAN: AAICA1169R#		UNI-GLOBAL LOGISTICS JSC 3/F DINH LE TOWER, 01 DINH LE STREET, DISTRICT 04, HO CHI MINH CITY, VIETNAM Tel: +84-28-39435743 // Fax: +84-28-39435744 Email: Info@uni-global.com	
NOTIFY PARTY/INTERMEDIATE CONSIGNEE (Name and Full Address) SAME AS CONSIGNEE #Email: ADRIKAHEALTH@GMAIL.COM TEL: +91 9831043801		NAME AND ADDRESS OF SHIPPING AGENT UNI-GLOBAL LOGISTICS 3RD FLOOR, NO 18/3, RAJAH ANNAMALAI BUILDING, RUKMANI LAKSHMIPATHY ROAD EGMORE, CHENNAI, TAMIL NADU, 600008 TEL: 91 44 4356 6000	
PORT OF ORIGIN KOLKATA, INDIA		PLACE OF RECEIPT HOCHIMINH PORT, VIETNAM	
PORT OF DESTINATION KOLKATA, INDIA		PLACE OF DELIVERY KOLKATA, INDIA	
PARTICULARS FURNISHED BY SHIPPER			
MARKS AND NUMBERS CONTAINER NUMBERS		NO. OF PKGS	
TCKU3066070 / UCS20210219 GLDU3044723 / UCS20210206 TCKU1458940 / UCS20210201 GLTU0169978 / UCS20210215 PCIU3123837 / UCS20210207 MCSU2037347 / UCS20210220 TORU2366602 / UCS20210203 XINU1560211 / UCS20210100 TDTU3350505 / UCS20210008 CRXU3023522 / UCS20210202 TDRU2728390 / UCS20210009 MSKU3626117 / UCS20210001 CRSU1169584 / UCS20210146 GLDU3324302 / UCS20210145		SHIPPER'S LOAD & COUNT SAID TO CONTAIN RICE BRAN OIL-OTHER THAN REFINED H.S. CODE: 1515.90.00 ITC CODE: 1515.90.99	
CY/CY FCL/FCL		GROSS WEIGHT KGS	
		299,350.00	
		MEASUREMENT CBM	
		SHIPPED ON BOARD PROGRESS S009 AT HOCHIMINH CITY, VIETNAM NOV.13.2021	
BILL OF LADING TO BE RELEASED AT HOCHIMINH CITY, VIETNAM		NOV.13.2021	
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CARRIER'S AREA			
CARRIER'S PERIMETER			
CARRIER'S DIAGONAL			
CARRIER'S CIRCUMFERENCE			
CARRIER'S SURFACE AREA			
CARRIER'S VOLUME			
CARRIER'S WEIGHT			
CARRIER'S LENGTH			
CARRIER'S WIDTH			
CARRIER'S HEIGHT			
CARRIER'S AREA			
CARRIER'S PERIMETER			
CARRIER'S DIAGONAL			
CARRIER'S CIRCUMFERENCE			
CARRIER'S SURFACE AREA			
CARRIER'S VOLUME			
CARRIER			

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ORIGINAL

Goods consigned from (Exporter's business name, address, country) SETHIA HEMRA RICE OIL COMPANY LIMITED LOT I-3 ZONE C EXTENDED, SA DEC INDUSTRIAL ZONE, TAN KHANH DONG COMMUNE, SA DEC CITY, DONG THAP - 81000, VIETNAM		Reference No. VN-IN 21/02/1167 ASEAN-INDIA FREE TRADE AREA PREFERENTIAL TARIFF CERTIFICATE OF ORIGIN (Combined Declaration and Certificate) FORM A Issued in VIET NAM (Country) See Notes Overleaf	
2. Goods consigned to (Consignee's name, address, country) ADRIKA HEALTH FOOD PRIVATE LIMITED 4, CHOWRINGHEE LANE BLOCK-III, 6TH FLOOR KOLKATA - 700016, INDIA		4. For Official Use ☐ Preferential Tariff Treatment Given Under ASEAN-India Free Trade Area Preferential Tariff ☐ Preferential Tariff Treatment Not Given (Please state reason/s)	
3. Means of transport and route (as far as known) FROM: HOCHIMINH PORT, VIETNAM (BY SEA) Departure date 13 NOV, 2021 Vessel's name/Aircraft etc. PROGRESS S009 B/L NO.: UNISGN20215522 Port of Discharge TO: KOLKATA, INDIA		5. Item number 1/	
6. Marks and numbers on Packages N/M		7. Number and type of packages, description of goods (including quantity where appropriate and HS number of the importing country) 14 PACKAGES RICE BRAN OIL-OTHER THAN REFINED H.S. CODE: 1515.90.99 N.W: 297,950.00 KGS	
8. Origin criterion (see Notes overleaf) RVC 100.00%		9. Gross weight or other quantity and value (FOB) G.W: 299,350.00 KGS FOB VALUE: 240,359.08 USD	
10. Number and date of Invoices SH2021/002 04 NOV, 2021		11. Declaration by the exporter DIRECTOR The undersigned hereby declares that the above details and statements are correct and that the goods were produced in CÔNG TY TNHH SETHIA HEMRA and that they comply with the requirements specified for these goods in the ASEAN-INDIA Free Trade Area Preferential Tariff for the goods exported to INDIA DONG THAP PROVINCE, 02 DEC 2021 Place and date, signature of authorised signatory <i>Ashmit Sethia</i>	
12. Certification ISSUED RETROACTIVELY It is hereby certified on the basis of documents carried out, that the declaration by the exporter is correct. PHONG QUAN LY XUAT NHAP KHAU KHU VUC TP. HO CHI MINH CUC XUAT NHAP KHU Phan Thị Mỹ Hạnh HOCHIMINH CITY, 02 DEC 2021 Place and date, signature and stamp of certifying authority		13. Where appropriate please tick: ☐ Third Country Invoicing ☐ Exhibition ☐ Back-to-Back CO ☐ Cumulation	

6. From the above documents, we find that even these documents specify that the goods were not refined. These documents had been submitted by the Appellant along with their Bill of Entry at the time of imports. Therefore, we do not find that the Appellant had any intention to mis-declare the goods. They were simply interpreting the exemption under the Notification and had taken the view that they would be eligible for Nil rate of Customs duty. It is an admitted fact that the Appellant has also paid the demanded Customs duty along with interest which is not being contested by them now. Therefore, we do not see any reason for confiscation of the goods and imposing of penalties on account of mis-declaration.

7. It is being made clear that the Customs duty along with interest paid by the Appellant is being held by this Bench to be validly paid by them and as not being contested by them. The Ld.Advocate has also assured the Bench that no claim of refund shall be made by the appellant towards the Customs Duty and Interest already paid by them.

8. Considering the specific factual details discussed above, we set aside the confiscation order and consequent redemption fine imposed on them. We also set aside the penalty imposed on the Appellant. The Appeal stands disposed off thus.

(Dictated and pronounced in the open Court.)

Sd/
(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/
(RAJEEV TANDON)
MEMBER (TECHNICAL)