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

REGIONAL BENCH – COURT NO. 2

Customs Appeal No. 75377 of 2024

(Arising out of Order-in-Original No. 16/Cus/CC(P)/WB/2023-24 dated 28.12.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Aone Agro Products Private Limited : Appellant
42A, Rafi Ahmed Kidwai Road,
Aspirations Enigma, Flat No. 4A, 4th Floor,
Kolkata – 700 016

VERSUS

Commissioner of Customs (Preventive) : Respondent
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75307 of 2024

(Arising out of Order-in-Original No. 11/Cus/CC(P)/WB/2023-24 dated 29.11.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Rajesh Kumar Agarwal : Appellant
M/s. Budge Budge Refineries Limited
23B, A.M. Ghosh Road, Budge Budge,
Kolkata – 700 137

VERSUS

Commissioner of Customs (Preventive) : Respondent
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75314 of 2024

(Arising out of Order-in-Original No. 11/Cus/CC(P)/WB/2023-24 dated 29.11.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Budge Budge Refineries Limited : Appellant
23B, A.M. Ghosh Road, Budge Budge,
Kolkata – 700 137

VERSUS

Commissioner of Customs (Preventive) : Respondent
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75315 of 2024

(Arising out of Order-in-Original No. 11/Cus/CC(P)/WB/2023-24 dated 29.11.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Pankaj Keshan, Authorized Signatory, **: Appellant**
M/s. Budge Budge Refineries Limited
23B, A.M. Ghosh Road, Budge Budge,
Kolkata – 700 137

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75317 of 2024

(Arising out of Order-in-Original No. 11/Cus/CC(P)/WB/2023-24 dated 29.11.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Bijay Kumar Agarwal, Director, **: Appellant**
M/s. Budge Budge Refineries Limited
23B, A.M. Ghosh Road, Budge Budge,
Kolkata – 700 137

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75367 of 2024

(Arising out of Order-in-Original No. 11/Cus/CC(P)/WB/2023-24 dated 29.11.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Sanjoy Deb, Proprietor, **: Appellant**
M/s. Sowallow Enterprise
Near Telephone Exchange, Babupara,
P.O.: Gobordanga, North 24 Parganas,
West Bengal, PIN – 743 252

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75373 of 2024

(Arising out of Order-in-Original No. 16/Cus/CC(P)/WB/2023-24 dated 28.12.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Smt. Jyoti Rungta, Director, **: Appellant**
M/s. Aone Agro Products Private Limited
42A, Rafi Ahmed Kidwai Road,
Aspirations Enigma, Flat No. 4A, 4th Floor,
Kolkata – 700 016

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75374 of 2024

(Arising out of Order-in-Original No. 16/Cus/CC(P)/WB/2023-24 dated 28.12.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Amit Kumar Rungta, Director, **: Appellant**
M/s. Aone Agro Products Private Limited
42A, Rafi Ahmed Kidwai Road,
Aspirations Enigma, Flat No. 4A, 4th Floor,
Kolkata – 700 016

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75391 of 2024

(Arising out of Order-in-Original No. 11/Cus/CC(P)/WB/2023-24 dated 29.11.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Joydeb Sarkar **: Appellant**
Vill.: Ghojadanga, Panitor, P.S.: Basirhat,
District: North 24 Parganas,
West Bengal, PIN – 743 292

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75398 of 2024

(Arising out of Order-in-Original No. 17/Cus/CC(P)/WB/2023-24 dated 29.12.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Joydeb Sarkar **: Appellant**
Vill.: Ghojadanga, Panitor, P.S.: Basirhat,
District: North 24 Parganas,
West Bengal, PIN – 743 292

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75399 of 2024

(Arising out of Order-in-Original No. 16/Cus/CC(P)/WB/2023-24 dated 28.12.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Joydeb Sarkar **: Appellant**
Vill.: Ghojadanga, Panitor, P.S.: Basirhat,
District: North 24 Parganas,
West Bengal, PIN – 743 292

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75436 of 2024

(Arising out of Order-in-Original No. 11/Cus/CC(P)/WB/2023-24 dated 29.11.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Sourav Sarkar **: Appellant**
Ghojadanga, Panitor, Basirhat,
North 24 Parganas,
West Bengal, PIN – 743 292

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75437 of 2024

(Arising out of Order-in-Original No. 16/Cus/CC(P)/WB/2023-24 dated 28.12.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Sourav Sarkar **: Appellant**
Ghojadanga, Panitor, Basirhat,
North 24 Parganas,
West Bengal, PIN – 743 292

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75440 of 2024

(Arising out of Order-in-Original No. 16/Cus/CC(P)/WB/2023-24 dated 28.12.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Soumen Saha **: Appellant**
1/A, Garia Park, Garia,
Kolkata – 700 084

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75441 of 2024

(Arising out of Order-in-Original No. 16/Cus/CC(P)/WB/2023-24 dated 28.12.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Santosh Kumar Senapati **: Appellant**
Nabadiganta, Uttar Baluria,
Noapara, Barasat,
Kolkata – 700 125

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75444 of 2024

(Arising out of Order-in-Original No. 17/Cus/CC(P)/WB/2023-24 dated 29.12.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Sourav Sarkar **: Appellant**
Ghojadanga, Panitor, Basirhat,
North 24 Parganas,
West Bengal, PIN – 743 292

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75445 of 2024

(Arising out of Order-in-Original No. 11/Cus/CC(P)/WB/2023-24 dated 29.11.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Soumen Saha **: Appellant**
1/A, Garia Park, Garia,
Kolkata – 700 084

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75499 of 2024

(Arising out of Order-in-Original No. 17/Cus/CC(P)/WB/2023-24 dated 29.12.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. V.K. Oils Limited **: Appellant**
Swaika House, 25B, Shakespeare Sarani,
Kolkata – 700 017

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75500 of 2024

(Arising out of Order-in-Original No. 17/Cus/CC(P)/WB/2023-24 dated 29.12.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Bengani Commodities Private Limited : Appellant
Everest House, 12th Floor, Flat No. 12B,
46C, Jawaharlal Nehru Road,
Kolkata – 700 071

VERSUS

Commissioner of Customs (Preventive) : Respondent
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75515 of 2024

(Arising out of Order-in-Original No. 17/Cus/CC(P)/WB/2023-24 dated 29.12.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Vijay Kumar Swaika, Director, : Appellant
M/s. V.K. Oils Limited
Swaika House, 25B, Shakespeare Sarani,
Kolkata – 700 017

VERSUS

Commissioner of Customs (Preventive) : Respondent
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75516 of 2024

(Arising out of Order-in-Original No. 17/Cus/CC(P)/WB/2023-24 dated 29.12.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Harish Bengani, Director, : Appellant
M/s. Bengani Commodities Private Limited
Everest House, 12th Floor, Flat No. 12B,
46C, Jawaharlal Nehru Road,
Kolkata – 700 071

VERSUS

Commissioner of Customs (Preventive) : Respondent
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75517 of 2024

(Arising out of Order-in-Original No. 17/Cus/CC(P)/WB/2023-24 dated 29.12.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Navneet Kumar Swaika, Director, : Appellant
M/s. V.K. Oils Limited
Swaika House, 25B, Shakespeare Sarani,
Kolkata – 700 017

VERSUS

Commissioner of Customs (Preventive) : Respondent
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75518 of 2024

(Arising out of Order-in-Original No. 17/Cus/CC(P)/WB/2023-24 dated 29.12.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Ms. Tripti Bengani, Director, : Appellant
M/s. Bengani Commodities Private Limited
Everest House, 12th Floor, Flat No. 12B,
46C, Jawaharlal Nehru Road,
Kolkata – 700 071

VERSUS

Commissioner of Customs (Preventive) : Respondent
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75519 of 2024

(Arising out of Order-in-Original No. 17/Cus/CC(P)/WB/2023-24 dated 29.12.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Bimal Bengani : Appellant
Jindal House, Flat No. 32, 9th Floor,
8A, Alipore Road,
Kolkata – 700 027

VERSUS

Commissioner of Customs (Preventive) : Respondent
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 76114 of 2024

(Arising out of Order-in-Original No. 17/Cus/CC(P)/WB/2023-24 dated 29.12.2023 passed by the Commissioner of Customs (Preventive), West Bengal, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Soumen Saha **: Appellant**
1/A, Garia Park, Garia,
Kolkata – 700 084

VERSUS

Commissioner of Customs (Preventive) **: Respondent**
Kolkata, Custom House, 3rd Floor, 15/1, Strand Road,
Kolkata – 700 001

APPEARANCE:

Shri Arijit Chakrabarti, Advocate,
For the Appellant(s)

Shri Faiz Ahmed, Authorized Representative,
For the Respondent

CORAM:

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

FINAL ORDER NOs. 75545-75569 / 2026

DATE OF HEARING: 18.03.2026

DATE OF DECISION: 27.04.2026

ORDER: [PER SHRI R. MURALIDHAR]

The appellants have imported Crude Rapeseed Oils / Mustard Oils classifying the same under CTH 1514 9190 / 1514 9120 from Bangladesh, claiming Customs Duty exemption in terms of Notification No.75/2006 Cus (NT) dated 30.06.2006 read with Notification No.99/2011 Cus dated 09.11.2011 as amended from time to time, applicable for imports carried out under South Asian Free Trade Area [SAFTA] Agreement. For claiming the SAFTA benefit, the appellants filed the SAFTA Certificate of Origin issued by the Bangladesh Authorities. Much later after the goods were imported and cleared for domestic consumption, the DRI, after some enquiries and investigation, came to a conclusion that the goods imported had less than 2% Erucic Acid and hence the same would be classifiable under Low Erucic Acid Rapeseed [LEAR] oil. It was their contention that Bangladesh had no facility to produce the Rapeseed with less than 2% Erucic acid. The rapeseed with less than 2% Erucic is only produced by Canada and hence the oil obtained is also known as Canola oil. Therefore, it was contended that the SAFTA Certificates of Origin issued certifying at Box 8 as "A" depicting the product as "wholly produced or obtained" in Bangladesh, is false and hence, the Customs Duty exemption benefit granted by way of these SAFTA Certificates of Origin, is liable to be recovered from the importers. The imports had taken place between 18th December, 2019 to 6th February, 2020. The Show Cause Notices came to be issued on 17.10.2022, to the importers, their Directors, Officials etc. After due process, the demands were confirmed along with interest and penalties were imposed on all the noticees. Being aggrieved, the appellants have filed the present appeals before the Tribunal.

2. Since the issue is common and mode of investigation, issue of SCN and Adjudication proceedings are identical, with the consent of both the sides, all the appeals have been taken up together for disposal. Ld. Counsel Sri Arijit Chakrabarti appears on behalf of all the appellants.

3. The Ld. Counsel submits that details of the imports and proceedings in respect of the four importers as per the following Table:

Sl. No.	Name of Importer	Period of dispute	Total number of past B/E	Total import quantity (in MTs)	Total value of import (in Rs.)	SCN No. & Date	OIO No. & Date
A.	M/s. Aone Agro Products Pvt. Ltd.	18.12.2019 to 06.02.2020	26	2525	19,12,86,258	C. No. VIII (48)83/ CUS/ AONE AGRO/ DRI/ SCN/ GJD-LCS/2022 dated 17.10.2022	16/CUS/CC (P)/WB/2023-24 dated 28.12.2023
B.	Sanjoy Deb, Prop. of M/s. Sowallow Enterprises	29.12.2019 to 06.02.2020	18	1720	13,89,74,908	C. No. VIII (48)82/ CUS/ SOWALLOW/ DRI/ SCN/ GJD-LCS/2022 dated 19.10.2022	11/CUS/CC (P)/WB/2023-24 dated 29.11.2023
C.	M/s. Bengani Commodities Pvt. Ltd.	07.11.2019 to 30.01.2020	27	3429	25,79,98,459	C. No. VIII (48)85/ CUS/ BENGANI/ DRI/ SCN/ GJD-LCS/2022 dated 17.10.2022	17/CUS/CC (P)/WB/2023-24 dated 29.12.2023
D.	M/s. V. K. Oils Ltd.	05.12.2019 to 05.02.2020	15	1669	12,46,95,696		

4. He submits that while the appellants have classified the imported goods under CTH 1514 9190 / 1514 9210 and the Revenue has taken the stand that the same would fall under CTH 1514 1120 [Low Erucic Acid Rapeseed (LEAR)]. The Customs Duty component is same in respect of all these Tariff Headings. However, the Revenue is viewing the imported goods as LEAR or Canola Oil and taking the ground that only Canada has the soil fertility to produce Rapeseed having Erucic Acid of less than 2% and Bangladesh

has no means to produce such quality of Rapeseed. Therefore, as per Revenue, the SAFTA Certificates of Origin provided by the Bangladesh exporters, and the Bangladesh Authorities certifying in the Certificate of Origin that the Rapeseed oil is wholly manufactured in Bangladesh cannot be taken as correct. Once the Certificate of Origin is termed as invalid, the appellants would not eligible to avail concessional Customs Duty. In such a case, the Customs Duty is required to be paid, which has been done by demanding the same under the present SCN proceedings.

5. It is submitted that as per the details given in the above Table, it would be evident that the adjudication orders determining demand of duty under Section 28(8) of the Customs Act, 1962 have been passed by the respondent in gross violation of Section 28(9)(b) of the Customs Act, 1962 and as such, in view of second *proviso* to Section 28(9) *ibid*, the respective Show Cause Notices issued by the Ld. Assistant Commissioner of Customs, Ghojadanga LCS are deemed to be concluded as if no notice had been issued. In other words, the impugned three Orders-in-Original passed by the respondent herein deserve to be quashed and set-aside *in limine* and all the appeals respectively arising out of such three Orders-in-Original supra deserve to be allowed in favour of the respective appellant with consequential relief.

6. The Ld. Counsel submits that the appellants have classified the imported oil under CTH 1514 9190 / 1514 9210 and they have filed the SAFTA Certificates by way of Certificates of Origin in respect of all the Bills of Entry. The self-assessed Bills of Entry have been taken on record and the goods have been granted Out of Charge by the Customs Authorities. Therefore, once the Bills of Entry are self-assessed, if any classification is proposed to be changed, the same would amount to re-assessment in terms of Section 17(5) of the Customs Act 1962. In the SCN this provision is not mentioned. At Clause (d) of the Para 15 of the SCN the word used are '*should not be rejected, under the provisions of the Customs Notification ibid and assessed to Duty on merit'*. This gives an impression that the goods were not finally assessed at the time of their initial clearance, which is not correct. Further, the SCN, is contradicting itself about the assessment issue and goes on to demand the differential duty based on the proposed re-classification. He submits that demand of duty would arise only upon re-assessment.

7. It is submitted that while passing impugned Orders-in-Original, the respondent Commissioner has re-assessed all the past B/Es of the respective importers under Section 17(5) of the Customs Act, 1962 [*Ref. Para (v) & (vi) at page 169-170 of Appeal No. C/75377/2024*], whereas, there was no such proposition in the SCN [*Ref. page 83-84 of Appeal No. C/75377/2024*] and the SCN was specifically issued under Section 28(4) of the Customs Act, 1962 [Ref. page 14 of Appeal No. C/75377/2024] and hence, the act of the respondent is beyond the scope of SCN and hence, not maintainable. Further, the Hon'ble

Supreme Court of India in *Commissioner of Customs v. Canon India Pvt. Ltd. [2024 (390) ELT 545 (S.C.)]* has categorically held that the ambit of Section 28 and Section 17 of the Customs Act, 1962 are completely different and hence, cannot be coupled together [Ref.: Para 95 to 99 of the report].

8. It is also submitted that the Hon'ble Supreme Court of India at para 102 of the Judgment passed in Cannon India supra has held that "The use of the article "the" in the expression "the proper officer" should be read in the context of that proper officer who has been conferred with the powers of the discharging the functions under Section 28 by conferment under Section 5. In other words, the proper officer is qua the function or power to be discharged or exercised." As such, it is now recognized and settled position of law that a particular proper officer is to undertake both the actions under sub-Section (4) & (8) both of Section 28 of the Customs Act, 1962. In view of Section 110AA, as inserted by the Finance Act, 2022, as relied upon by the respondent Commissioner [Ref. page 167 of Appeal No. C/75377/2024], the power under Section 28 can be exercised by proper officer having jurisdiction, as assigned under Section 5 in respect of assessment of such duty or by an officer to whom the proper officer is subordinate. In other words, the said provision of law provides that both the functions of issuance of notice and determination of liability, if any, is to be made by one officer. In the impugned three Orders-in-Original, notices under Section 28(4) were issued by the Ld. Assistant Commissioner, Ghojadanga LCS, whereas, the determination of

liability has been made by the Ld. Commissioner, which is not maintainable in law.

9. He further submits that since the initial assessment was final, it was incumbent on the part of Revenue to file an appeal if they were aggrieved by the classification of the goods. This was not done. The issuing of the SCN invoking Section 28(4) is legally not sustainable, since the Revenue has not filed any appeal against the self-assessed Bills of Entry. He relies on the case law of ***ITC Ltd. v. CCE, Kol-IV [2019 (368) ELT 216 (S.C.)***. While in that case the Hon'ble Supreme Court dealt with the issue of refund claim filed by the appellant and held that appeal against the self-assessed Bill of Entry is required, it is submitted that the ratio equally applies for the appeals to be filed by the Revenue where any demand arises on account of valuation / re-classification.

10. After this, he makes the submission that when the self-assessed Bills of Entry were filed, the samples were drawn and were sent to CRCL for Testing. The Lab Reports of the CRCL, were uploaded with specific reference to the Bill of Entry and only thereafter the goods were released for home consumption. Therefore, it is not a case that the Revenue came to know about the Erucic Acid content of the imported goods only after the samples were tested once again during the investigation stage. The entire system of collecting the sample and number of samples collected during the second testing, are clearly flawed. The goods were already sold by the importers. It is on record that after the goods reached various indigenous buyers, the DRI officials visited them to verify the quality of the oil received by them. The

details of Bills of Entry involved vis-à-vis the number of samples collected is as per the following Table:

Sl. No.	Name of Importer	Period of dispute	Total number of past B/E	Number of Samples Collected
A.	M/s. Aone Agro Products Pvt. Ltd.	18.12.2019 to 06.02.2020	26	6
B.	Sanjoy Deb, Prop. of M/s. Sowallow Enterprises	29.12.2019 to 06.02.2020	18	4
C.	M/s. Bengani Commoditi es Pvt. Ltd.	07.11.2019 to 30.01.2020	27	7
D.	M/s. V. K. Oils Ltd.	05.12.2019 to 05.02.2020	15	4

11. The Ld. Counsel submits that even as the Test Reports of all the imported consignments [26, 18, 27 and 15 in respect of the four appellants], was available with the Dept., as the same were collected at the time of imports, still the Revenue chose to pick only a few samples and send the same for Lab Testing for the second time. It is strongly argued that the test results even if found to be favouring the Revenue, cannot be applied for all the consignments. The Revenue is in gross error in adopting this method.

12. The Ld. Counsel produces copies of all the 26 Test Reports of CRCL in the case of the appellant AONE. He also submits the hard copies from Customs Website, wherein it is shown that the Lab Report details have been directly uploaded by CRCL. He points out that in many cases the test results show that the Erucic Acid content %age is to the extent of

2.8, 2.3, 2.4, 2.4, 2.6, 2.5, 2.6, 3.2, 3.4, 3.8 etc., which are all lower than 2%, and in some cases, the Acid content %age is to the extent of 1.4, 1.2. 2 etc. This data shows that the value of Erucic Acid is high in many cases as per the CRCL and even in case wherein it was less than 2.0 percent, no action was taken to get these samples re-tested. In the course of investigation, the already available samples have been sent to testing to other Labs. While the appellants submit that the reports are not conclusive, it is also their submission that if these reports are found to be favouring the Revenue, then since the initial CRCL's report at the time of imports, were favouring the appellants, one more third set of sample inspection should have been conducted, which has not been conducted in these cases. The Dept. has directly interpolated the purported Test Reports from three Labs for all the consignments though only a few samples were tested. This procedure is illegal. The Ld. Counsel for the appellants relies on various case laws on this issue, holding that sample taken for one consignment cannot be applied to other consignments.

13. Coming to the SAFTA Certificates of Origin, the Ld. Counsel takes us through the Certificates enclosed along with the Paper Book. He takes us to Box 8, stating that the goods fall under category 'A'. At box 12, the exporter declares that all the details given are correct and the goods were produced in "Bangladesh". This is ratified by the Director, Export Promotion Bureau stating that '*It is hereby certified on the basis of control carried out, that the declaration by the exporter is correct*'. In response to the query raised on the SAFTA Certificates of Origin issued by

Bangladesh, enquiry and investigation has been conducted at their end from various exporters, in Q & A form. The entire details of these Q & A sheets have been forwarded by the Director (Policy) Export Promotion Bureau., Bangladesh, certifying that the Questionnaire is verified with supporting documents and was found to be correct. It is also specifically mentioned that the Erucic acid content was not checked since there was no specific requirement given at the time of exports.

14. The Ld. Counsel submits that once the Bangladesh Authorities certify that the contents in the SAFTA Certificates of Origin are found to be correct, the Indian officials have no jurisdiction to question the same by taking a mere assumption that Bangladesh is not capable of producing seeds with less than 2% Erucic Acid. There is nothing to suggest that any query was put to the Bangladesh officials as to whether their country is capable for producing the oil with less than 2% Erucic acid content. As can be seen from the CRCL report, in many cases, the Erucic Acid content is more than 2 %. The counsel takes us through to Page 296, wherein the details of the suppliers of seed to the oil manufacturer is given in a table form. In the relevant columns and rows it is clearly stated that the seeds are of Bangladesh origin. The appellants rely on case laws cited in the Grounds of appeal.

15. In view of the above submissions, the Ld. Counsel prays that the impugned Orders may be set aside and the appeals may be allowed on merits.

16. After this, the Ld. Counsel makes his submissions on account of time bar. It is submitted that the SCNs have been issued in October 2022 for the consignments imported during the period 18.12.2019 to 06.02.2020, by invoking the extended period provisions of Section 28(4), which is legally not sustainable on account of time bar.

17. The appellant has given the details of the goods imported and has adopted the CTH 1514 9190 / 1514 9120. Samples were drawn and tested at the time of imports. The lab report was uploaded by CRCL even before the consignment were released to the importers. The relevant SAFTA Certificate of Origin certificate was presented to the Customs Authorities at the time of imports. Only after being satisfied with all the documentary evidence produced by the appellants, the imported goods were allowed to be cleared. In the entire proceedings, not even an iota of evidence has been brought in by the Revenue to the effect that the appellant has indulged in any suppression on their part.

18. It is submitted that the appellant as a purchaser is bound to have *bonafide* belief in the content of the Certificate of Origin. No evidence has been brought in to show that the appellant was in any way connected with the alleged contravention in the Certificates of Origin issued by Bangladesh. If the Certificate certifies that the goods are of Bangladesh origin [having been produced there], the appellant is bound to accept the same on face value.

19. Coming to issue as to whether the CTH adopted is in respect of LEAR Oil or otherwise, he submits that at the most it is purely an interpretational issue. The

CRCL reports in many cases clearly show that the imported oil is not LEAR. Therefore, when the issue boils down to interpretation, the Revenue cannot allege any suppression on the part of the appellant to invoke the extended period provisions.

20. In view of the above submissions, it is prayed that the appeals may be allowed even on account of time bar.

21. The Ld. Authorized Representative appearing for the Revenue, takes us through the detailed investigation and enquiries conducted by the Department. He submits that after many consignments were imported, the investigation was taken up by DRI, wherein they came to a conclusion that the oil imported were LEAR in nature. Since no rapeseed with less than 2% Erucic Acid content was being produced by Bangladesh, the question of the resultant oil being wholly manufactured at Bangladesh would not arise. The samples drawn at the time of imports were once again sent to three different laboratories, wherein it has come out clearly that the Erucic Acid content is less than 2%. The test results of these three labs are part of the SCN and the relied upon documents. He further submits that enquiries were conducted with various buyers of the oil in India, wherein they have confirmed that they have purchased Canola oil from the importers. Thus, it becomes clear that the appellants have imported Canola Oil in the guise of Crude Rapeseed oil and have availed the SAFTA benefit which is not available to them.

22. Heard both the side in detail. Perused the appeal papers, written submissions, case laws and other related documents placed before us.

23. We first take up the point raised by the appellant that the Adjudicating Authority has failed to pass the Order in Original within a period of One year in terms of Section 28(9)(b) of the Customs Act 1962. The Bench pointed out to the Ld. Counsel that the issue is *sub judice* before the Hon'ble Supreme Court, which in the case of **Union of India vs GMR Airport Infrastructure Ltd** on 2nd May, 2025, has stayed the Order of the High Court involving the issue of time bound passing of the Order in Original by the Adjudicating authority. The Hon'ble Supreme Court has directed the Tribunals / High Court to defer the hearings on this issue. Hence, this point cannot be considered by the Bench at this juncture. The Ld. Counsel for the appellants has conceded that he is not pressing this issue and would withdraw this submission and prayed that the other points canvassed may be considered by the Bench.

24. Another preliminary point raised was to the effect that in the impugned three Orders-in-Original, notices under Section 28(4) were issued by the Ld. Assistant Commissioner, Ghojadanga LCS, whereas, the determination of liability has been made by the Ld. Commissioner, which is not maintainable in law. The SCN issued by the Asst. Commissioner, clearly states that the same is answerable to the Commissioner of Customs (Preventive). The powers to Adjudication, is based on the monetary value of the concerned demand. The Asst. Commissioner being fully aware that the demanded amount runs into

crores of rupees, has correctly called upon the appellants to address their defence to the Commissioner of Customs (Prev). Therefore, we do not subscribe to the view canvassed by the appellants. The Ld. Counsel has conceded that this point is not being pressed by the appellants.

25. We summarize the basic arguments of the appellants as under:

(a) In respect of the present proceedings, all the consignments were already cleared for home consumption and were sold to various buyers. Drawing of a few past samples and applying the result for all the consignments is legally not tenable. They rely on the cited case laws.

(b) At the time of imports, samples have been drawn and test results have been received from the CRCL. The Test results show that in many consignments the Erucic Acid content to be more than 2%. These result of CRCL have been ignored by the Revenue.

(c) The DRI has sent the details of Certificates of Origin issued, to Bangladesh Authorities to check the veracity of the same. Positive Report has been received from them. Once they have confirmed that the COO issued is proper, the Revenue has no legal authority to question their authenticity. The appellant relies on the cited case laws.

(d) The SCNs have been issued in October 2022 in respect of the consignments imported during the period 18.12.2019 to 06.02.2020, by invoking the extended period provisions of Section 28(4), which is legally not sustainable on account of time bar, considering the fact that all the Test Reports for the samples drawn at the time of imports were very much available with the Department.

(e) The SCN has been issued in November / December 2023 in respect of the consignments imported during the period 18.12.2019 to 06.02.2020, by invoking the extended period provisions of Section 28 (4), whereas the Adjudicating authority has re-determined the classification, falling under Section 17(5), which was not the proposal in the SCN.

(f) The re-determination of Section 17(5) is to be done by the officer who as assessed the Bill of Entry [the AC / DC], whereas in this case the Commissioner has taken up the re-determination, which is without jurisdiction.

(g) Without prejudice, the self-assessed Bills of Entry were in the form of final assessment. The goods were cleared without any Bond. Hence, if the Revenue was aggrieved by the self-assessed Bills of Entry, they should have filed an appeal before the higher appellate authority. Therefore, the present proceedings directly invoking Section 28 (4) to demand the differential duty is legally not sustainable.

26. We find from the records that the goods in question, i.e., Crude rapeseed oil [as per the appellants], were cleared after filing of the Self-assessed Bills of Entry claiming the Customs Duty exemption under Notification No.75/2006 Cus (NT) dated 30.06.2006 read with Notification No.99/2011 Cus dated 09.11.2011 as amended from time to time and after paying the relevant IGST [Additional Duty of Customs]. We have gone through the Bills of Entry, The Uploaded Test Report of CRCL and the Certificates of Origin in respect of all the consignments. One sample linked Bill of Entry No.6374613 dated 07.01.2020, the Uploaded Test Report and Certificate of Origin, is reproduced below:

INDIAN CUSTOMS

PORT : LCS - GHOJADANGA, PANITOR, WEST BENGAL
BILL OF ENTRY FOR HOME CONSUMPTION

Port Code	BE No	BE Date	BE Type
INGJXB	6374613	07/01/2020	H
IEC/Br	0215000358/0		OOC COPY
GSTIN/TYPE	19AANCS7929L1ZD/G		
CB CODE	AADCJ4115DCH001		
TYPE	INV	ITEM	CONT
Nos	1	1	1
PKG	6	G.WT (MTS)	110

PART - I - BILL OF ENTRY SUMMARY

A. STATUS

1.BE STATUS	2.MODE	3.DEF BE	4.KACHA	5.SEC 48	6.REIMP	7.ADV BE (Y/N/P)	8.ASSESS	9.EXAM	10.HSS	11.FIRST CHECK	12. PROV/ FINAL
OOC COPY	Sea	T	N	N	N	C	Y	Y	N	C	F

13.COUNTRY OF ORIGIN: BANGLADESH
14.COUNTRY OF CONSIGNMENT: BANGLADESH
15.PORT OF LOADING: BHOMRA
16.PORT OF SHIPMENT: BHOMRA

B. DECLARANT

1.IMPORTER NAME & ADDRESS
AONE AGRO PRODUCTS PRIVATE LIMITED
42A, RAFI AHMED KIDWAI ROAD,4TH FL.
FLAT NO. 4A,ASPIRATIONS ENIGMA,
KOLKATA,W.B.
700016
AD CODE 6392234

2.CB NAME JYOTI CUSTOMS BROKER SERVICES PRIVATE LIMITED
3.AEO
4.UCR

C. DUTY SUMMARY

1.BCD	2.ACD	3.SWS	4.NCCD	5.ADD	6.CVD	7.IGST	8.G.CESS	18.TOT.ASS VAL
0	0	0		0	0	421354	0	8427075

9.SG	10.SAED	11.GSIA	12.TTA	13.HEALTH	14.TOTAL DUTY	15.INT	16.PNLTY	17.FINE	19.TOT. AMOUNT
					421354	0	0	0	421354

D.MANIFEST DETAILS

1.IGM NO	2.IGM DATE	3.INW DATE	4.GIGMNO	5.GIGMDT	6.MAWB NO	7.DATE	8.HAWB NO	9.DATE	10.PKG	11.GW
464225	07/01/2020	07/01/2020	0		EXPTC19262	29/12/2019			6	110

E. BOND DETAILS

1.BOND NO.	2.PORT	3.BOND CD	4.DEBT AMT	5.BG AMT

F. PAYMENT DETAILS

1.SR NO	2.CHALLAN NO	3.PAID ON	4.AMOUNT(Rs.)
1	2029883314	08/01/2020	421354

G. WH

1.WBE NO.	2.DATE	3.WBE SITE	4.WH CODE

I. INVOICE DETAILS - SUMMARY#

1.S.NO	2.INVOICE NO	3.INV. AMT	4.CUR
1	EXPCI19262	115500	USD

H. PROCESSING DETAILS

1.EVENT	2.DATE	3.TIME	EXCHANGE RATE
Submission	07-JAN-20	10:25	1 USD=72.15INR
Assessment	08-JAN-20	19:08	
Examination	08-JAN-20	18:04	
OOC	09-01-2020	10:36	

J. CONTAINER DETAILS *

1.SNO	2.LCL/ FCL	3.TRUCK	4.SEAL	5.CONTAINER NUMBER
1	L		NIL	NA

OOC NO. 2036212715
OOC DATE 09-01-2020

[redacted]

GLOSSARY

A : DEF - Deferred Payment, REIMP - Reimport, ADV - Advance, P - Prior, HSS - HighSeaSale; B : CB - Customs Broker, AEO - Authorized Economic Operator, UCR - Unique Customs Reference; D : GIGM - Gateway IGM; G : WBE - WareHouse BE; I : OOC - Out of Charge, # Refer Part IV for full list of Invoices J : * Refer Part IV for full list of Containers;

Page 1 Of 6

स्वच्छ भारत
एक कदम स्वच्छता की ओर

INDIAN CUSTOMS

PORT : LCS - GHOJADANGA, PANITOR, WEST BENGAL
BILL OF ENTRY FOR HOME CONSUMPTION

Port Code	BE No	BE Date	BE Type
INGJXB	6374613	07/01/2020	H
IEC/Br	0215000358/0		OOC COPY
GSTIN/TYPE	19AANCS7929L1ZD/G		
CB CODE	AADCJ4115DCH001		
TYPE	INV	ITEM	CONT
Nos	1	1	1
PKG	6	G.WT (MTS)	110

PART - IV - ADDITIONAL DETAILS

A. SVB DETAILS

1.INVSNO	2.ITMSNO	3.REF NO	4. REF DT	5. PRT CD	6.LAB	7.P/F	8.LOAD DATE	9.P/F

B. PREVIOUS BEs

1.INVSNO	2.ITMSNO	3. BE NO	4. BE DATE	5. PRT CD	6.UNITPRICE	7.CURRENCY CODE

C. RE-IMPORT AFTER EXPORT

1.INVSNO	2.ITMSNO	3.NOTN NO	4.SLNO	5.FRT	6.INS	7.DUTY	8.SB NO	9.SB DT	10.PORTCD	11.SINV	12.SITEMN

D. ITEM MANUFACTURER/PRODUCER/GROWER DETAILS

1.INVSNO	2.ITMSNO	3.TYPE	4.MANUFACT CD	5.SOURCE CY	6.TRANS CY	7.ADDRESS

E. ACCESSORY STATUS

1.INVSNO	2.ITMSNO	3.ACESSORY ITEM DETAILS

F. LICENCE DETAILS

1.INVSNO	2.ITMSNO	3.LIC SLNO	4.LIC NO	5.LIC DATE	6.CODE	7.PORT	8.DEBIT VALUE	9.QTY	10.UQC	11.DEBIT DUTY

G. CERTIFICATE DETAILS

1.CERTIFICATE NUMBER	2.DATE	3.TYPE
EPB/19/OTHER/13090	29-DEC-19	MS

H.HSS DETAILS

1.PRC LEVEL	2.IEC	3.BRANCH SLNO

I. SINGLE WINDOW DECLARATION

1.INVSN	2.ITMSNO	3.INFO TYP	4.QUALIFIER	5.INFO CD	6.INFO TEXT	7.INFO MSR	8.UQC
1	1	CHR	SQC			110000	KGS
1	1	CTG	FSP	NPF			
1	1	CHR	STC	STCNR			

J. SINGLE WINDOW DECLARATION - CONSTITUENTS

1.INVSN	2.ITMSNO	3.C SNO	4.NAME	5.CODE	6.PERCENTAGE	7.YIELD PCT	8.ING

K. SINGLE WINDOW DECLARATION - CONTROL

1.INVSN	2.ITMSNO	3.CONTROL TYPE	4.LOCATION	5.SRT DT	6.END DT	7.RES CD	8.RES TEXT

L. SUPPORTING DOCUMENTS

1.INVSN	2.ITMSNO	3.TYP	4.ICEGATE ID	5.IRN	6.DOC CODE	7.ISSUE PLACE	8.ISSUE DT	9.EXP DT
0	0	86100	JYOTICUSCUL19	2020010700001760		GHOJADANGA	07-JAN-20	20-JAN-20
0	0	38000	JYOTICUSCUL19	2020010700001761		GHOJADANGA	07-JAN-20	20-JAN-20
0	0	929AS	ICESBEFIRSTCOPY	I202001080024394			08-JAN-20	
0	0	929AS	ICESBEFIRSTCOPY	I202001070008418			07-JAN-20	
0	0	929AS	ICESBEFIRSTCOPY	I202001070010718			07-JAN-20	
0	0	70500	JYOTICUSCUL19	2020010700001762		GHOJADANGA	07-JAN-20	20-JAN-20

M. CONTAINER DETAILS

1.CONTAINER NUMBER	2.TRUCK NUMBER	3.SEAL NUMBER	4.FCL/LCL
NA		NIL	L

N. INVOICE DETAILS

1. S NO	2. INVOICE NO	3. INVOICE AMOUNT	4. CUR
1	EXPCI19262	115500	USD

GLOSSARY

Ref No - SVB Reference Number, Ref Dt - SVB Reference Date; **F :** Code - Licence Scheme Code; **G :** PRC - Preceding; **J :** ING - Ingredient

Master Invoice iTems Dept comments Exam order Queries iGM Cont eXAm_instr liceNce dUty Grp7_dutyfg Others

Test Memo No 1060580 Test Memo Dt 07-JAN-2020

BE No 6374613 BE Date 07-JAN-2020 AG 1

CHA Name

IEC 0215000358 Imp Name AONE AGRO PRODUCTS PRIVATE LIMITED

Imp Add 42A, RAFI AHMED KIDWAI ROAD,4TH FL.

Sup Nm CITY SEED CRUSHING INDUSTRIES LTD.

Sup Cntry BANGLADESH Inv No 1

Item Desc CRUDE RAPE SEED OIL

Query Desc TO CONFORM WHETHER CRUDE RAPE SEED OIL OR NOT.

Lab Cd CL00CCU1 Lab Rpt No 3482/15-956 *Press CTRL+E to view

Lab Rpt Dt 07-JAN-2020

Lab Rpt

The sample is in the form of yellowish brown coloured oily liquid. It has got the characteristics of Rapeseed oil

Entry By

Lab Exam Id

Lab Rpt Entry By

Shd Id

Location

Lab Report

The sample is in the form of yellowish brown coloured oily liquid. It has got the characteristics of Rapeseed oil as per Is 13680:2018.The sample u/r is other than refined.

Acid value = 2.8

sealed remnant sample may be collected from the laboratory within a fortnight.

OK Cancel Search

6374613

315

315

CERTIFICATE OF ORIGIN
(SOUTH ASIAN FREE TRADE AREA)

1. Goods consigned from (exporter's business name, address, country)
CITY SEED CRUSHING INDUSTRIES LTD.
CITY HOUSE, PLOT#NW(J) 06, ROAD#51, GULSHAN-2, DHAKA-1212, BANGLADESH. FAC: UTTAR RUPSHI, RUPGANJ, NARAYANGANJ.

Reference No. EPB/19/Other/ 13090

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, country) AONE AGRO PRODUCTS PVT LTD.
42A RAFI AHMED KIDWAI ROAD
KOLKATA-700016, WB, INDIA.
Gst No:19AANCS7929L1ZD

3. Means of Transport and route (as far as known) BY ROAD/TANKER
FROM: BHOMRA, BANGLADESH.
TO: 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 $
1514.91.90 1514.91.00	IN TANKER	CRUDE RAPESEED OIL PI NO: EXP-19-262 DT:26.12.2019 EXP NO: 00002486 086642 2019 DT:29.12.2019	"A"	GROSS WT: 110.00 MT. NET WT: 110.00 MT	EXP-CI-19-262 DT: 29.12.2019	C & F GHOJADANGA USD: 1,15,500.00 (US DOLLAR ONE LAC FIFTEEN THOUSAND FIVE HNNDRED ONLY)

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, 29.12.2019
Iqbal Rana
Executive-Export
City Group
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

29 DEC 2019
Place and date, signature and stamp of certifying authority

27. From the above documents, it is seen that the said Bill of Entry has been presented on 07.01.2020 and the Lab Report confirming the Erucic Acid content as 2.8 has been uploaded on 07.01.2020 and Out of Charge has been issued on 09.01.2020. Thus, it is observed that all the relevant documents towards the imports and the Certificate of Origin for claiming SAFTA benefit, were filed by the appellant and after due verification, the goods were allowed to be cleared in the normal course. It is also seen that the Crude Rapeseed Oil in question was tested by CRCL and the result was uploaded in the Customs Website. The Erucic Acid value is shown as 2.8 which would make the product go out of LEAR [which is the claim of the Revenue]. No queries with regard to the authenticity of COO, classification or valuation has been raised for this self-assessed Bill of Entry at the time of import.

28. After this, we have gone through the correspondence between Indian and Bangladesh officials on this issue. The relevant documents are extracted below:

(290)

290

F.No.456/17/2020-Cus.V
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
CENTRAL BOARD OF INDIRECT TAXES & CUSTOMS
*****

19-A, 4th Floor, Jeevan Deep Building,
Sansad Marg, New Delhi-110001
October, 2021

To

The Principal Additional Director General.
Directorate of Revenue Intelligence,
Kolkata Zonal Unit,
8, Ho Chi-Minh Sarani,
Kolkata – 700071.
E-mail: bandhana.deori@gov.in, drikzu@nic.in

Sir,

Subject: Investigation into imports of Canola Oils from Bangladesh by eight major importers covered by DRI, Kolkata through Ghojadanga LCS in West Bengal – involving revenue implications of around Rs. 52 Crores – regarding.

Kind reference in invited to your communication with reference No. DRI/KZU/CF/ENQ-02(INT-02)/2020 dated 6th May, 2020, email dated 27th May, 2020 and Board's earlier communications of even number dated 8th July, 2020 on the subject captioned above.

2. In this regard, please find attached a Note Verbale No.19.00.0000.411.43.366.17-900 dated 23rd August, 2021 furnishing verification reports (copy enclosed) received from Issuing authorities in Bangladesh in respect of said 141 CoOs along with supporting documents.

3. The verification report in respect of all CoOs along with supporting documents, are being forwarded herewith with a request to thoroughly analyze the same and to initiate appropriate action, as deemed fit, in this regard.

3.1. However, it may be noted that DRI, KZU in its above-referred communications have indicated a CoO with reference No.EPB/19/Other/13000 whereas response has been received in respect of CoO No.EPB/19/Other/13001. Details in both the CoOs are apparently identical. Further, it has also been noticed that the reference No. of CoO provided by DRI, KZU was partially missing. Hence, this fact may be kept in mind while analyzing the verification report in respect of said CoO.

3.2. In case, additional information is required to be obtained from the Issuing authority towards finalization of the CoOs, the same should be brought to the notice of the Board clearly mentioning the specific queries/documents required.

Yours faithfully,

12/10/21

(Himani Dua)
OSD (FTA Cell-1)
Email: ftacell1-cbic@gov.in

292, 292

..yesh Basall
..ommercial Representative
Ph. +88-02-55067327
E-mail: com1.dhaka@mea.gov.in

भारत का उच्चायोग, ढाका
High Commission of India
Dhaka
ভারতীয় হাই কমিশন, ঢাকা

No. DAC/E&C/217/02/2021

09 September 2021

Dear Jyoti,

Please refer to your letters F.NO.456/17/2020-CUS.V dated 08 July 2020, 03 March 2021 and 31 August 2021, F.NO.456/01/2021-CUS.V dated 13 April 2021, F.NO.465/01/2018-CUS.V dated 01 March 2021 seeking verification of Country of Origin Certificate said to be issued in Bangladesh under South Asian Free Trade Area (SAFTA).

2. Mission has relentlessly followed up on this issue with the concerned Bangladesh authorities and have received the reply along with relevant documents on 05 September 2021. The documents received are are attached for further necessary action.

Regards,

With Best Regards,

Yours sincerely

(Pramyesh Basall)

Ms. Jyoti Virdi
OSD (FTA Cell-1)
19-A, 4th Floor,
Jeevan Deep Building,
Sansad Marg, New Delhi- 110001

OF FOREIGN AFFAIRS
ERNMENT OF THE
REPUBLIC OF BANGLADESH
DHAKA

293 (293)

পররাষ্ট্র মন্ত্রণালয়
গণপ্রজাতন্ত্রী বাংলাদেশ সরকার
ঢাকা

No. 19.00.0000.411.43.366.17-900

The Ministry of Foreign Affairs, Government of the People's Republic of Bangladesh presents its compliments to the High Commission of India in Dhaka and has the honour to forward herewith documents related to Verification of Country of Origin (COO) certificates as per SAFTA Verification Rule received from the concerned authorities of Bangladesh. The hard copies of the said documents will be sent to your esteemed High Commission in due course.

The Ministry of Foreign Affairs, Government of the People's Republic of Bangladesh avails itself of this opportunity to renew to the High Commission of India in Dhaka the assurances of its highest consideration.

Enclosure: As stated (3,235 pages sent in hard copies only)

Dhaka, 23 August 2021

Ministry of Foreign Affairs
Dhaka
Govt. of Bangladesh

High Commission of India
Dhaka

91

Sonargaon Seeds Crushing Mills Ltd. MGi

456/17/2020 - CUS

234

(1)

294

Answer about questionnaire

1: Certificate of Origin (COO No.) :

EPB/19/Other/11584	EPB/19/Other/12240	EPB/19/Other/12544	EPB/19/Other/12834	EPB/19/Other/13102
EPB/19/Other/11634	EPB/19/Other/12241	EPB/19/Other/12612	EPB/19/Other/12980	EPB/19/Other/13103
EPB/19/Other/11672	EPB/19/Other/12242	EPB/19/Other/12613	EPB/19/Other/12981	EPB/19/Other/13106
EPB/19/Other/11915	EPB/19/Other/12393	EPB/19/Other/12614	EPB/19/Other/12982	EPB/19/Other/13107
EPB/19/Other/12050	EPB/19/Other/12394	EPB/19/Other/12640	EPB/19/Other/12983	EPB/19/Other/13108
EPB/19/Other/12051	EPB/19/Other/12541	EPB/19/Other/12641	EPB/19/Other/12984	EPB/19/Other/13132
EPB/19/Other/12092	EPB/19/Other/12543	EPB/19/Other/12805	EPB/19/Other/12985	34

EPB/20/Other/58	EPB/20/Other/227	EPB/20/Other/462	EPB/20/Other/812	EPB/20/Other/1199
EPB/20/Other/59	EPB/20/Other/330	EPB/20/Other/463	EPB/20/Other/813	EPB/20/Other/1200
EPB/20/Other/62	EPB/20/Other/360	EPB/20/Other/464	EPB/20/Other/814	EPB/20/Other/1201
EPB/20/Other/140	EPB/20/Other/361	EPB/20/Other/465	EPB/20/Other/939	EPB/20/Other/1202
EPB/20/Other/141	EPB/20/Other/453	EPB/20/Other/549	EPB/20/Other/1042	EPB/20/Other/1412
EPB/20/Other/142	EPB/20/Other/454	EPB/20/Other/804	EPB/20/Other/1084	EPB/20/Other/1413
EPB/20/Other/143	EPB/20/Other/455	EPB/20/Other/805	EPB/20/Other/1085	EPB/20/Other/1414
EPB/20/Other/144	EPB/20/Other/456	EPB/20/Other/807	EPB/20/Other/1086	EPB/20/Other/1536
EPB/20/Other/147	EPB/20/Other/457	EPB/20/Other/808	EPB/20/Other/1194	EPB/20/Other/1537
EPB/20/Other/148	EPB/20/Other/458	EPB/20/Other/809	EPB/20/Other/1195	57
EPB/20/Other/149	EPB/20/Other/459	EPB/20/Other/810	EPB/20/Other/1196	
EPB/20/Other/150	EPB/20/Other/461	EPB/20/Other/811	EPB/20/Other/1198	

2: **Issuing Authority** : *Export Promotion Bureau, Dhaka, Bangladesh.*

3: **Exporter's Name** : *Sonargaon Seeds Crushing Mills Limited*

4: **Brief Description of the commercial activity of the exporter** :- *Sonargaon Seeds Crushing Mills Limited is involved in production, sales and distribution of crude edible oils, mainly for local market and we export some portion of our capacity.*

5: **Please provide the Certificate of Business Registration of the Exporter** : *NT02008*

6: **The country where the goods covered under the COO was produced** : *Bangladesh.*

7: **Please provide the following information for each of the material/components used to produce the goods certified as originating:**

The following material/components are used in production of 1,000 KGs Crude Rape Seed Oil in Bulk

SL No.	HS Code (at six digit level)	Description of Component, Materials, Inputs, Parts	Supplier's Name And Address	Country of Origin of the Component, Materials, Inputs, Parts	Quantity (KG)	Value (USD)	%
1.	1205.10	Rape Seeds	Local Purchase	Bangladesh	2,297.75 Less Rape Seed Meal Quantity (-) 1,251.25 Crude Rape Seed Oil = 1,046.50	\$ 1,264.44 Less Rape Seed Meal Value (-) \$ 719.47 Crude Rape Seed Oil = \$ 544.29	100

7(A): **Where cumulation is being claimed, copies of supporting certificates of origin by other FTA member may please be provided.** *Not Applicable*

7(B): **Where components/material are originating, the basis of origin of the components/material may be provided.** *Not Applicable*

7(C): **A break-up of costs other than the raw material being incurred may also be provided.** *Not Applicable*

21, 23, 24, 25, 26, 28, 29, 31, 32, 33,
2, 3, 4, 5, 6, 11, 12, 14, 17, 18, 20
34, 37, 38, 39, 40, 41, 42, 46, 47, 48, 49, 50, 52, 53, 54, 56, 77, 78, 7

Head Office: Fresh Villa, House 15, Road 34, Gulshan-1, Dhaka-1212, Bangladesh Tel: +88 09666777055
Head Office: Fresh Villa, House 15, Road 34, Gulshan-1, Dhaka-1212, Bangladesh | FMCG Office: House 23, Road 24, Gulshan 2, Dhaka-1212, Bangladesh
Fax: +880 222289361, 222284896 | Email: info@mgi.org | FMCG Office: House 23, Road 24, Gulshan 2, Dhaka-1212, Bangladesh
Fax: +880 2 7912381, 7912382 | Email: fresh@mgi.org
Tel: +880 2 7912703, 7912718, 7912719 | Fax: +880 2 7912381, 7912382 | Email: fresh@mgi.org
Factory: Meghna Economic Zone, Jhawchar, Meghnaghat, Sonargaon, Narayanganj, Bangladesh | Web: www.mgi.org

80, 81, 82, 83, 85, 86, 88, 89, 90, 91, 92, 94, 95, 96, 97, 98, 100, 101, 102, 103, 104,
109, 109, 110, 111, 112, 113, 115, 116, 117, 118, 119, 120, 121, 122, 123, 125, 127, 128, 129, 130,
133, 134, 135, 136, 137, 138, 139, 140, 141

Sonargaon Seeds Crushing Mills Ltd. | Mgi

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8: Please provide a brief description of the production processes carried out for the goods certified as originating.

Brief description of the production processes of Crude Rape Seed Oil:

Step 1- CLEANING, DRYING AND PREPARATION OF THE SEEDS/BEANS: As a first step the seeds/beans is cleaned and dried. Foreign material, such as stones, glass and metal is taken out by sieving and magnets and is disposed of outside the feed chain. Drying is performed whilst avoiding contact with combustion gasses unless natural gas is used. Seeds/Beans may be dehulled after cleaning. After dehulling, the meal has a lower crude fibre content, and hence a higher protein content. The seeds/beans hulls can also be used for feeding purposes, as such or in pelletized form.

Step 2- CRUSHING AND HEATING: Seeds/Beans have a relatively low oil content. They are thermally treated, mechanically crushed into raw materials/flakes that are further extracted.

Step 3- EXTRACTION: Separates the oil from the seeds/beans. The pre-processed seeds/beans are treated in a multistage counter-current process until the remaining oil content is reduced to the lowest possible level.

9: The value addition attributable to the above processes.
Value Addition is 100 %

10: Is the De-Minimis Rule used for determination of origin?
Not Applicable

11: Is the good being verified or any component/material used in its production a fungible good? If so, details of the inventory management method may please be provided.
Not used.

12: Final outcome of the verification-whether the consignment covered under the COO meets the Rules of of Origin under FTA to be considered as Origin.

Information provided in this Questionnaire is verified with supporting documents supplied with this COO's and found correct. Bangladesh side did not verified ERUCIC ACID content in the consiment because there was no specific requirment from Indian side.

For, Sonargaon Seeds Crushing Mills Limited

Sonargaon Seeds Crushing Mills Ltd.

Authorized Signature
Mahbubur Rahman Shabbir
General Manager
Foreign Trade

K. Sultana
Kumkum Sultana
Deputy Director
Export Promotion Bureau
Dhaka.

Md. Abul Kalam Azad
Director (Policy)
Export Promotion Bureau
Dhaka.

Head Office: Fresh Villa, House 15, Road 34, Gulshan-1, Dhaka-1212, Bangladesh | Tel: +88 09666777055
Fax: +880 2222289361, 2222284896 | Email: info@mgi.org | FMCG Office: House 23, Road 24, Gulshan 2, Dhaka-1212, Bangladesh
Tel: +880 2 7912703, 7912718, 7912719 | Fax: +880 2 7912381, 7912382 | Email: fresh@mgi.org
Factory: Meghna Economic Zone, Jhawchar, Meghnaghat, Sonargaon, Narayanganj, Bangladesh | Web: www.mgi.org

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Sonargaon Seeds Crushing Mills Ltd.

SL No.	Supplier Name	Goods Name	Quantity In MT	Date
1	স্বর্ণা ট্রেডার্স, সিরাজগঞ্জ	দেশী কালো সরিষা	1,833.45	23-Feb-2019
2	স্বর্ণা ট্রেডার্স, সিরাজগঞ্জ	দেশী সাদা সরিষা	1,833.45	24-Feb-2019
3	মেসার্স সাহা ট্রেডার্স, টাঙ্গাইল	দেশী লাল সরিষা	1,221.79	24-Feb-2019
4	মেসার্স আল-আমিন এন্টারপ্রাইজ, ধামরাই	দেশী লাল সরিষা	1,232.87	24-Feb-2019
5	অনুকমার এন্ড ব্রাদার্স ট্রেডার্স, নওগাঁ	দেশী লাল সরিষা	1,220.60	25-Feb-2019
6	মেসার্স সাহা ট্রেডার্স, টাঙ্গাইল	দেশী সাদা সরিষা	1,221.79	25-Feb-2019
7	অনুকমার এন্ড ব্রাদার্স ট্রেডার্স, নওগাঁ	দেশী সাদা সরিষা	1,220.60	26-Feb-2019
8	মেসার্স বাবুল ট্রেডার্স, টাঙ্গাইল	দেশী লাল সরিষা	1,224.00	15-Mar-2019
9	মেসার্স শংকর কুমার সাহা ট্রেডার্স, মানিকগঞ্জ	লাল ও সাদা সরিষা	1,237.84	24-Apr-2019
10	মেসার্স শংকর কুমার সাহা ট্রেডার্স, মানিকগঞ্জ	দেশী সাদা সরিষা	1,229.70	25-Apr-2019
11	নাহিয়ান এন্টারপ্রাইজ, টাঙ্গাইল	দেশী লাল সরিষা	1,218.90	25-Apr-2019
12	নাহিয়ান এন্টারপ্রাইজ, টাঙ্গাইল	সরিষা	1,218.80	25-Apr-2019
13	মেসার্স বাবুল ট্রেডার্স, টাঙ্গাইল	দেশী লাল সরিষা	1,227.40	25-Apr-2019
14	মেসার্স শংকর কুমার সাহা ট্রেডার্স, মানিকগঞ্জ	দেশী লাল সরিষা	1,226.72	26-Apr-2019
15	সততা এন্টারপ্রাইজ, টাঙ্গাইল	দেশী সাদা সরিষা	1,223.83	27-Apr-2019
16	মেসার্স বাবাজী	লাল ও সাদা সরিষা	1,222.05	27-Apr-2019
17	মেসার্স নুরইল ট্রেডার্স, বগুড়া	দেশী সাদা সরিষা	1,158.21	25-Nov-2019
18	সততা এন্টারপ্রাইজ, টাঙ্গাইল	দেশী সাদা সরিষা	1,223.15	25-Nov-2019
19	মেসার্স নুরইল ট্রেডার্স, বগুড়া	দেশী সাদা সরিষা	1,158.21	26-Nov-2019
20	মেসার্স নুরইল ট্রেডার্স, বগুড়া	দেশী সাদা সরিষা	1,158.21	27-Nov-2019
21	মেসার্স বাবাজী	দেশী সাদা সরিষা	1,231.14	27-Nov-2019
22	মেসার্স নুরইল ট্রেডার্স, বগুড়া	দেশী সাদা সরিষা	1,158.21	28-Nov-2019
23	মেসার্স নুরইল ট্রেডার্স, বগুড়া	দেশী সাদা সরিষা	1,158.21	29-Nov-2019
		Total =	29,109.02	MT

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JAMUNA EDIBLE OIL INDUSTRIES LTD.

A Sister Concern Of Jamuna Industrial Agro Group

"Annexure-B"

QUESTIONNAIRE

1. Certificate of Origin (COO No.).
Answer: EPB/19/Other/12484 Date: 12.12.2019

2. Issuing authority.
Answer: Export Promotion Bureau, Bangladesh.

3. Exporter's name.
Answer: Jamuna Edible Oil Industries Ltd.

4. Brief Description of the Commercial activity of the Exporter:
Answer: Jamuna Edible Oil Industries Ltd. (JEOIL) is a sister concern of Jamuna Industrial Agro Group, a local conglomerate involved in agro food processing industry. JEOJL is involved in refining and marketing of Edible oil (soybean oil, rice bran oil and rapeseed oil etc.) at home and abroad through its state of the art refinery located in Rajshahi, Bangladesh.

5. Please provide the Certificate of Business Registration of the Exporter.
Answer: NT-00434

6. The country where the goods covered under the COO was produced.
Answer: Bangladesh.

7. Please provide the following information for each of the materials/components used to produce the goods certified as originating: N/A

SL. No.	HS Code (at Six digit level)	Description of Components, Materials, Inputs, Parts	Supplier's Name and Address	Country of Origin of the Component, Materials, Inputs, Parts	Quantity	Value (In US$)
01	1205.10	Rapeseed	Local Purchase	Local		

7(A) Where cumulation is being claimed, copies of supporting certificates of origin by other FTA members may please be provided.
Answer : Cumulation has not been claimed.

7(B) Where components/materials are originating, the basis of origin of the components/materials may be provided.
Answer: N/A

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JAMUNA EDIBLE OIL INDUSTRIES LTD. 300

Symbol of Quality & Commitment

A Sister Concern Of Jamuna Industrial Agro Group

8. Please provide a brief description of the production processes carried out for the goods certified as originating.
   Answer: Please see annexure A.
9. The value additions attributable to the above processes.
   Answer: Value additions 100%
10. Is the De- Minimis Rule used for determination of Origin?
    Answer: Not Applicable
11. Is the Good being verified or any component/material used in its productions fungible goods?If so, details of the inventory managements method may please be provided.
    Answer: Not Used
12. Final outcome of the verifications-whether the consignments covered under the COO meets the Rules of Origin under FTA to be considered as Origin.
    Answer: Information provided in this Questionnaire is verified with supporting documents supplied with this CoO and found correct. Bangladesh Side did not verified ERUCIC ACID content in the consiment because there was no specific requirment from Indian Side.

K. Sultana
Kumkum Sultana
Deputy Director
Export Promotion Bureau
Dhaka.

Kumkum Sultana
Deputy Director
Export Promotion Bureau
Dhaka.

Md. Abul Kalam Azad
Director (Policy)
Export Promotion Bureau
Dhaka.

Jamuna Edible Oil Industries Ltd
Dy. Managing Director
Operation

Corporate Office: Azmat Lunarium (4th, 6th & 9th Floor), House # 04, Road # 33, Sector # 07, Uttara, Dhaka-1230, Bangladesh.
Phone: +880-2-48957691, E-mail: expo@jamunaindustrialagrogroup.com
Rajshahi Office : 380/2, Upashahar Housing Estate, Rajshahi, Bangladesh. Tel: +88-0247-861309, 8613010
Fax: +88-0247-860982, E-mail: oil@jamunaindustrialagrogroup.com
Factory Office : Sonadighi (Bolragitala), Godagari, Rajshahi, Bangladesh.
www.jamunaindustrialagrogroup.com

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M/S. MIM INTERNATIONAL

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Importer & Exporter

Ref :

Date :............................

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QUESTIONNAIRE

1. Certificate of Origin (COO No.) Answer:-EPB(K)SAFTA/888. Date: 27 Jan 2020

2. Issuing authority:
 Answer:- Export Promotion Bureau, Khulan, Bangladesh.

3. Exporter's name:
 Answer:- Mim International.

4. Brief Description of the Commercial activity of the Exporter:
 Answer:- Mim International, is involved in Sales and Distribution of Crude Oils, Mainly Local Market and we exports some portion of our capacity.

5. Please provide the Certificate of Business Registration of the Exporter.
 Answer:-EPB.Reg.No-01009.

6. The country where the goods covered under the COO Was Produced.
 Answer:- Bangladesh.

7. Please Provide the following information for each of the material/components used to produce the goods certified as originating:
 Answer:- Not applicable.

SI No.	Hs Code (at Six digit Level)	Description of component Materials, Inputs, parts	Supplier's Name and Address	Country of Origin of the Component, Materials, inputs, Parts	Quantity	Value	%
1.	1205.10	Crude Mustard oil	Local Purchase	Bangladesh			

7(A) Where cumulation is being claimed, copies of supporting certificates of origin by other FTA member may please be provided.
 Answer:- Not applicable.

7(B) Where components/material are originating, the basis of origin of the components/material may be provided.
 Answer:- Not Applicable.

7(C) A break-up of Costs other than the raw material being incurred may also be provided.
 Answer:-Not Applicable.

M/S. MIM INTERNATIONAL.

Proprietor

Benapole Office : Ware House Gate No.-2, T.M Building, Lalkhan Road, Benapole, Jessore.
Mobile : 01748-943338, 01711-579169, E-mail : mimint2002@gmail.com

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M/S. MIM INTERNATIONAL

Importer & Exporter

306

Ref:

Date :..............................

-2-

8. Please provide a brief description of the production Processes carried out for the goods certified as originating.
Answer:- Local Purchase.

9. The value addition attributable to the above processes.
Answer:- Value addition 100%.

10. Is the De-Minimis Rule Used for determination of origin?
Answer:- Not applicable.

11. Is the good being verified or any component/material used in its production a fungible good? If so, details of the inventory management method may please be provided.
Answer:- Not Used.

12. Final outcome of the verification whether the consignment covered under the COO meets the Rules of Origin under FTA to be considered as Origin.
Answer:- Information provided in this Questionnaire is verified with supporting documents supplied with this COO and found correct. Bangladesh side did not verified FRUCTC ACID content in the consiment because there was no specific requirement from Indian side.

K. Sultana

Kumkum Sultana
Deputy Director
Export Promotion Bureau
Dhaka.

Md. Abul Kalam Azad
Director (Policy).
Export Promotion Bureau
Dhaka.

M/S. MIM INTERNATIONAL
Proprietor

Benapole Office : Ware House Gate No.-2, T.M Building, Lalkhan Road, Benapole, Jessore.
Mobile : 01748-943338, 01711-579169, E-mail : mimnent2002@gmail.com

29. From the above documents, it is observed that the Indian officials have sent their query to the Bangladesh officials to check the veracity of the Certificates of Origin issued by the exporters. The verifications have been conducted by Bangladesh officials and the same has been forwarded to the Indian officials.

30. In the report given by the Bangladesh officials, they have enclosed the Question posed to the exporters and Answers received on various issues. The relevant portion reads as under:

> *Question 7: Please provide the following information for each material / components used to produce the goods certified as originating.*

In the answer [from the extracted copy reproduced above], states that*:*

- *(a) The Rapeseed pertains to 'Local Purchase'*
- *(b) Country of Origin of the purchased Rapeseed is 'Bangladesh'*

31. We have also gone through the attachment made to 456/17/2020 Cus at Page 296 of the Paper Book, about the origin of the rapeseed. The Bangali language Statement and its translation is extracted below:

Sonargaon Seeds Crushing Mills Ltd.

	Supplier Name	Goods Name	Quantity In MT	Date
	...ট্রেডার্স, সিরাজগঞ্জ	দেশী কালো সরিষা	1,833.45	23-Feb-2019
	...ট্রেডার্স, সিরাজগঞ্জ	দেশী সাদা সরিষা	1,833.45	24-Feb-2019
	মেসার্স সাহা ট্রেডার্স, টাঙ্গাইল	দেশী লাল সরিষা	1,221.79	24-Feb-2019
	মেসার্স লাল-আমিন এন্টারপ্রাইজ, ধামরাই	দেশী লাল সরিষা	1,232.87	24-Feb-2019
	...এন্ড ব্রাদার্স ট্রেডার্স, নওগাঁ	দেশী লাল সরিষা	1,220.80	25-Feb-2019
	মেসার্স সাহা ট্রেডার্স, টাঙ্গাইল	দেশী সাদা সরিষা	1,221.79	25-Feb-2019
	...এন্ড ব্রাদার্স ট্রেডার্স, নওগাঁ	দেশী সাদা সরিষা	1,220.80	26-Feb-2019
	মেসার্স বাবুল ট্রেডার্স, টাঙ্গাইল	দেশী লাল সরিষা	1,224.00	15-Mar-2019
	মেসার্স শংকর কুমার সাহা ট্রেডার্স, মানিকগঞ্জ	লাল ও সাদা সরিষা	1,237.84	24-Apr-2019
	মেসার্স শংকর কুমার সাহা ট্রেডার্স, মানিকগঞ্জ	দেশী সাদা সরিষা	1,229.70	25-Apr-2019
	...এন্টারপ্রাইজ, টাঙ্গাইল	দেশী লাল সরিষা	1,218.90	25-Apr-2019
	...এন্টারপ্রাইজ, টাঙ্গাইল	সরিষা	1,218.60	25-Apr-2019
	মেসার্স বাবুল ট্রেডার্স, টাঙ্গাইল	দেশী লাল সরিষা	1,227.40	25-Apr-2019
	মেসার্স শংকর কুমার সাহা ট্রেডার্স, মানিকগঞ্জ	দেশী লাল সরিষা	1,226.72	26-Apr-2019
	...এন্টারপ্রাইজ, টাঙ্গাইল	দেশী সাদা সরিষা	1,223.83	27-Apr-2019
16	মেসার্স বাবাজী	লাল ও সাদা সরিষা	1,222.05	27-Apr-2019
17	মেসার্স মুহিন ট্রেডার্স, বগুড়া	দেশী সাদা সরিষা	1,158.21	25-Nov-2019
18	...এন্টারপ্রাইজ, টাঙ্গাইল	দেশী সাদা সরিষা	1,223.15	25-Nov-2019
19	মেসার্স মুহিন ট্রেডার্স, বগুড়া	দেশী সাদা সরিষা	1,158.21	26-Nov-2019
20	মেসার্স মুহিন ট্রেডার্স, বগুড়া	দেশী সাদা সরিষা	1,158.21	27-Nov-2019
21	মেসার্স বাবাজী	দেশী সাদা সরিষা	1,231.14	27-Nov-2019
22	মেসার্স মুহিন ট্রেডার্স, বগুড়া	দেশী সাদা সরিষা	1,158.21	28-Nov-2019
23	মেসার্স মুহিন ট্রেডার্স, বগুড়া	দেশী সাদা সরিষা	1,158.21	29-Nov-2019
		Total =	29,109.02	MT

32. The documents were given for Translation to Gemini and their result is reproduced below:

This document is a supplier ledger for **Sonargaon Seeds Crushing Mills Ltd.** It details the supply of various types of mustard seeds throughout 2019.

Below is the translation of the table headers and the core content from Bengali to English.

Sonargaon Seeds Crushing Mills Ltd.

Supplier Name	Goods Name	Quantity (In MT)	Date
Lucky Traders, Sirajganj	Deshi Black Mustard	1,833.45	23-Feb-2019
Lucky Traders, Sirajganj	Deshi White Mustard	1,833.45	24-Feb-2019
MessersSaha Enterprise, Tangail	Deshi Red Mustard	1,221.79	24-Feb-2019
Messers Al-Amin Enterprise, Tangail	Deshi Red Mustard	1,232.87	24-Feb-2019
Messers S.A. Traders, Naogaon	Deshi Red Mustard	1,220.80	25-Feb-2019
MessersSaha Traders, Tangail	Deshi White Mustard	1,221.79	25-Feb-2019
Messers S.A. Traders, Naogaon	Deshi White Mustard	1,220.80	26-Feb-2019
MessersAbul Traders, Tangail	Deshi Red Mustard	1,224.00	15-Mar-2019
Messers Shankar Kumar Saha Traders, Manikganj	Red & White Mustard	1,237.84	24-Apr-2019
Messers Shankar Kumar Saha Traders, Manikganj	Deshi White Mustard	1,229.70	25-Apr-2019
Alif Enterprise, Tangail	Deshi Red Mustard	1,218.90	25-Apr-2019
Alif Enterprise, Tangail	Mustard	1,218.80	25-Apr-2019
Messers Babul Traders, Tangail	Deshi Red Mustard	1,227.40	25-Apr-2019
Messers Shankar Kumar Saha Traders, Manikganj	Deshi Red Mustard	1,226.72	26-Apr-2019
Moumita Enterprise, Tangail	Deshi White Mustard	1,223.83	27-Apr-2019
MessersBagadi	Red & White Mustard	1,222.05	27-Apr-2019
Messers Ismail Traders, Bogra	Deshi White Mustard	1,158.21	25-Nov-2019

Supplier Name	Goods Name	Quantity (In MT)	Date
Moumita Enterprise, Tangail	Deshi White Mustard	1,223.15	25-Nov-2019
Messers Ismail Traders, Bogra	Deshi White Mustard	1,158.21	26-Nov-2019
Messers Ismail Traders, Bogra	Deshi White Mustard	1,158.21	27-Nov-2019
MessersBagadi	Deshi White Mustard	1,231.14	27-Nov-2019
Messers Ismail Traders, Bogra	Deshi White Mustard	1,158.21	28-Nov-2019
Messers Ismail Traders, Bogra	Deshi White Mustard	1,158.21	29-Nov-2019
Total		**29,109.02 MT**	

Export to Sheets

Key Terms Summary

- **Deshi (দেশী):** Local/Indigenous
- **Shorisha (সরিষা):** Mustard
- **Kalo (কালো):** Black
- **Shada (সাদা):** White
- **Lal (লাল):** Red
- **MT:** Metric Tons

32.1. At the end of Q & A by the exporter, the Dy. Director and Director, Export Promotion Bureau have certified as under:

> "*Information provided in this Questionnaire is verified with supporting documents supplied with this COOs and found correct. Bangladesh side did not verified ERUCIC ACID content in the consignment because there was no specific requirement from the Indian side*"

33. We find that the Revenue is clinging to the point that the Erucic Acid content was not verified. But the point remains that the Bangladesh Authorities have certified the contents of the COOs *to be correct based on the supporting documents supplied along with the COOs*. Since the exporters have claimed that the rapeseed has been procured locally and is of Bangladesh origin, it is to be viewed that this fact stands admitted by the Bangladesh Dy. Director and Director when they certify the correctness of the COOs themselves. Revenue cannot take the stand that since Erucic Acid content was not tested / verified, that by itself would prove their origin to be other than from Bangladesh, negating the assertion of the Bangladesh authorities. Therefore, we hold that the DRI cannot make a sweeping statement in the SCN "*it transpires that while issuing the SAFTA COOs, the Issuing Authority in Bangladesh did not properly examine the goods to be exported or the claims made by the suppliers to ascertain the description, H.S. Code and true origin of the products to be exported."* [Ref. Para 8.12 at page 48]

34. We have gone through some of the decisions of Tribunals on this issue, which are discussed below:

- **R.S. INDUSTRIES (ROLLING MILLS) LTD. Versus COMMISSIONER OF C. EX., JAIPUR-I - 2018 (359) E.L.T. 698 (Tri. - Del.)**

"5. We have heard both the sides and perused the appeal records. We note that the denial of exemption, as claimed by the importer, is on the ground that the value addition in Sri Lanka fall below 35%. We note that the certificates of origin have been issued by Competent Authority of Sri Lankan Government. The same is not in dispute. We already note that the certificate were not recalled or cancelled by the issuing authority. The only ground for denial of exemption is, the Zinc Ingots value subjected to assessment by Sri Lankan customs appears to be low. For this, support was drawn from LME price. We note that assessment of import of ingots was made by Sri Lankan Customs. The same cannot be varied here. We find it is not open to counterpart in India to reassess the goods which are not imported into India.

6.xxxxxxxxxxxx Even otherwise, we note that certificate of origin and the data submitted to get such certificates cannot be questioned based on statements of the importers. We find no record to the effect that the country of origin certificates issued by the Sri Lankan Government has been questioned by the Indian Authorities and follow up after import was done in order to cancel or recall the same. We note that the issue regarding country oforigin certificate and questions of bonafideness was discussed in the bilateral meeting of working group between the two countries on 5-6 2002 it was agreed that no detention or hold up of cargo is to be ordered on the question of bonafideness of certificates. Verification, if any, can be done post-facto with the concerned local nodal focal points at the respective headquarters. This much has been recorded in the letter dated 5-10-2004 of Department of Commerce, Government of Sri Lanka addressed to Commissioner of Customs (Imports), JNPT."

35. The Hon'ble Karnataka High Court in the case of ***Yellamma Dasappa v. Commissioner of Customs, Bangalore — 2000 (120) E.L.T. 67 (Kar.),*** has observed as follows :

"9. A valid certificate has been issued and the said certificate, even as on date, has not been withdrawn or cancelled for any alleged violation of the condition by the appellant. Unless the said certificate is cancelled, the Customs Authorities cannot impose customs duty. The seizure of the equipment is only a consequential act that would follow the cancellation of the certificate issued in favour of the appellant. So long as the certificate is not cancelled, the respondents could not, in our opinion, have initiated seizure proceedings in the case on hand. Petitioner-appellant was sent only a questionnaire and the said questionnaire has been answered by the appellant herein. No further action has been taken by the respondents. The Director General of Health Services has also not issued any cancellation of certificate as on date. In these circumstances, we are clearly of the view that without withdrawing or cancelling the certificate already issued, the present seizure cannot stand. Therefore we hold that the seizure effected by the respondents is not in accordance with law. The impugned order of the learned Single Judge, in these circumstances, requires to be set aside and accordingly the same is set aside."

36. The Kolkata Bench in the case of ***BDB Exports Pvt. Ltd. Vs Commissioner of Customs (Prev.), Kolkata - 2017 (347) E.L.T. 662 (Tri. - Kolkata)***, has held as under:

"**4.** Heard both sides and perused the records of the case. The issue involved in the present appeal is whether the main appellant is eligible to avail partial exemption under Notification No. 105/99-Cus., dated 10-8-1999 when read with SAPTA Rules. As per the first proviso to this Notification, the Assistant Commissioner/Deputy Commissioner/Joint Commissioner has to be satisfied that imported goods are in accordance with the Customs Tariff (Determination of Origin of Goods under the Agreement on SAARC Preferential Trading Arrangement) Rules, 1955 (SAPTA Rules). As per Rule 4 of the SAPTA Rules read with its Schedule even products processed in the member countries are eligible for concessions under SAPTA Rules when the base goods are not produced/manufactured in the contracting countries. The only requirement under these

Rules is that a certification of origin has to be produced for availing concessions as issued by the designated authority of Govt. of exporting contracting State and notified to the other contracting States in accordance with the certification procedures mentioned in the form annexed to SAPTA Rules. Required certificates of origin with respect to imported goods were furnished by the appellant where percentage of value addition as per SAPTA Rules was also indicated. Adjudicating authority has not accepted the value addition indicated in the certificate of origin but has gone with the investigation indigenously to allege that value addition cannot be to the extent claimed by the Appellant and also that activities undertaken by the supplier of cloves does not amount to 'processing' of cloves. It is observed from various provisions of SAPTA Rules and Notification No. 105/99-Cus., dated 10-8-1999 that there is no discretion or power with the Customs authorities to reject the certificate of origin given by the concerned contracting State. Para 9 of the same Schedule does give power to the contracting States to review/modify the said Rules.

4.4 In view of the above observations and the ratios laid down by the Courts certificates of origin produced by the Appellant cannot be discounted. There is no evidence on record that designated authority of Bangladesh under SAPTA Rules was maliciously involved with the supplier of cloves and the Appellant.

6. In view of the above observations and the settled proposition of law certificates of origin issued by the designated authority under SAPTA cannot be rejected which is the only requirement for the satisfaction of the Customs department under Notification No. 105/99-Cus., dated 10-8-1999. Once on merit the case goes in favour of the main appellant, there is no question of confiscation of imported goods and imposition of penalties upon the appellants."

37. The Delhi Bench in the case of **Minakshi Exports Vs Commissioner of Customs, Jodhpur - 2018 (359) E.L.T. 689 (Tri. - Del.),** has held as under :

> "Both the appeals are against common impugned order dated 5-1-2017 of Commissioner of Customs (Preventive), Jodhpur. The main appeal is by M/s. Meenaskhi Exports and the second appeal is by Shri Kailash Chand Agarwal, Authorized signatory of the main appellant. The main appellant imported CFL and filed a bill of entry for clearance of the same through ICD, Jaipur. The appellant claimed concession in customs duty in terms of the Notification No. 26/2000-Cus., dated 1-3-2000 read with Notification No. 19/2000, dated 1-3-2000. The concession is available for goods of Sri Lankan origin. <u>The appellants filed the prescribed certificate of origin in terms of Indo-Sri Lanka Free Trade Agreement (ISFTA). The said certificates were issued by the designated competent authority in Sri Lanka. The Revenue entertained a doubt as to the correctness of the claim for concessional rate of duty for the impugned goods. It was viewed that the goods were manufactured in China and imported through Sri Lanka to India</u>.
>
> **7.** We note that the impugned goods were imported from Sri Lanka. <u>Certificates of Origin issued by the competent Designated Authority in Sri Lanka have been filed for claiming preferential treatment for customs duty. The genuineness of the certificates is not in dispute. The certificates are valid and reiterated by the issuing authority even after specific queries were made by the Customs authorities in India</u>. We also note that the similar consignments have been cleared by the Customs authorities extending the preferential rate of duty in similar set of facts. We have perused the impugned order. We note that there is a basic contradiction in the findings recorded. After careful examination of the available details, the Original Authority categorically held that the goods were not of Chinese origin and as such, anti-dumping duty

cannot be levied on them, which is otherwise leviable if the goods are of Chinese origin. Having recorded thus, the Original Authority proceeded to hold that the appellant is not eligible for preferential rate though admittedly, the goods have originated from Sri Lanka. In other words, the goods were held to be of not Chinese origin and also not of Sri Lankan origin. In other words, we note that it is clear that the question of country of origin of the present goods is left hanging without a finding by the Original Authority. The goods were neither of Chinese origin nor of Sri Lankan origin. We note that the same is not a tenable position.

8. The Original Authority has apparently exceeded the jurisdiction in going into the aspects of possible classification of inputs used by the supplier in the manufacture of impugned goods in Sri Lanka. Holding that one of the input and the final product fall under the same four digit classification, it was concluded that the provisions of the Rule 7 have not been fulfilled. More specifically, reference was made by the Original Authority to conditions (b) and (d) of the Rule 7. This is based on the certain reports received from Sri Lankan Customs. The Original Authority while conceding the point that the assessment made by Sri Lankan Customs at the time of import of non-originating goods from China cannot be put to question here in India, proceeded to consider certain reports given by Sri Lankan Customs with reference to classification of one of the non-originating inputs. The classification of such input is not in the domain of the assessing officer in India. No opinion or conclusion can be formed based on the assessment, if any, carried out by Sri Lankan Customs. Denial of concession even when valid certificates of origin were submitted (and reiterated) is not legally tenable.

9. In view of the above discussion and analysis, we note that the impugned order is not sustainable. The same is set aside. The appeals are allowed."

38. In the case of **So-Hum Trading Company Vs Commissioner of Customs (Preventive), Kolkata FINAL ORDER NO. 75687-75688/2021 dated 10 November 2021**, the Tribunal has held as under :

> "12. We observe that the Country of Origin Certificates are conclusive evidence since these are issued by the Designated Committee of Bangladesh i.e. Export Promotion Bureau, and in absence of any material on record to show that these were forged or its genuineness questioned by DRI or Indian Customs, these Country of Origin Certificates should be considered as substantive and conclusive evidence. We find support from the decision of the Tribunal in the case of RS Industries (Rolling Mills) Ltd. (supra) and Minakshi Exports (supra). In the case of Minakshi Exports, the Tribunal held that in absence of any record to the effect that the Country of Origin Certificates issued by Bangladeshi Authorities have been questioned by the Indian Authorities and any follow up after import was done in order to cancel or recall the same, denial of Exemption benefit cannot be done. We also do not find any evidence on record of any overseas enquiry with the Bangladeshi supplier or confirmation with Bangladesh Customs or Bangladeshi Authority, and therefore the SAFTA Certificate cannot be unilaterally rejected. We find that the past three Bills of Entry, the Proper Officer i.e. Assistant/Deputy Commissioner of Customs, Petrapole LCS had done value loading after due consideration and extended benefit of Exemption Notification on verification of documents like SAFTA Certificates, invoices etc. and thus we do not find any ingredient of collusion, willful misstatement or suppression of facts and accordingly the penalty imposed under Section 114A of the Act ibid is fit to be set aside."

39. This Bench in **Shree Shyam Synthetics Vs Principal Commissioner of Customs (Port) Custom in Customs Appeal No. 75020 of 2025 vide Final Order No. 75381 / 2025 dated 18.02.2025**, has held as under :

> "8.8. It is also settled law that the if certificates at the time of import were valid, then their validity cannot be questioned on the basis of surmises. In this case, the evidences submitted by the investigation does not conclusively prove that the COOs submitted by the appellant were not genuine. On the contrary, the evidences submitted by the appellant indicate that the COOs submitted by the appellant are indeed genuine. Accordingly, we hold that the appellant had rightly availed the benefit of Notification No. 46/2011-Cus. dated 01.06.2011 on 16 Bills of Entry by presenting 16 country of origin certificates. Consequently, we hold that the impugned order passed by rejecting the benefit of the said notification is not sustainable. "

40. The Kolkata Bench in **Harshad Ajmera Vs Commr. of Customs (Airport), in Customs Appeal No. 76046 of 2015 vide FINAL ORDER NO.76326-76327/2025 Dated 8 April 2025**, has gone into the issue about the veracity of Certificate of Origin and has held as under:

> "50. To summarize :
>
> (1) The appellant has submitted the Certificates of Origin at the time of Imports. These Certificates have been checked for their authenticity by the Indian Customs officials duly verifying the details of the Authorized Officials certifying the same.
>
> (2) On the dates of the import, no doubt was expressed on the contents of the Certificates of Origin. The Show Cause was issued much later after more than 1 to 2 years.

(3) Even at the time of issue of SCN, the Revenue had no authentic evidence to doubt the veracity of the Certificates of Origin.

(4) The appellant appeared for the Personal Hearing and made their submissions. DRI failed to appear for the PH granted. The submissions of the appellant were shared by the Revenue with DRI Officials.

(5) After about 2 years from the date of issue of SCN, filing of reply and appearance for Personal Hearing, an Addendum was issued based on the two letters received from Thailand Government. Under these letters, it has been admitted that the Certificates have been 'Truly issued' and signed by the Authorized Officials.

(6) <u>In order to 'Truly Issue' the Certificate of Origin, the officials at Thailand had to follow the procedure prescribed under Annexure B of the Rules. There is nothing to indicate that they failed to do so</u>. The letter vaguely refers to the „exporter not able to prove the origin details within the time frame'. Nothing is indicated as to what kind of details were sought and what follow up was made up with them by Thailand authorities. There is nothing to indicate that any action has been taken by Thailand authorities against the exporters.

(7) <u>The Certificates of Origin in question have neither been cancelled nor been revoked</u>.

(8) <u>Till the amendment carried out vide Section 28DA in 2020</u>, <u>the importer is not fastened with any responsibility to prove that they have undertaken any due diligence work to check the veracity of the contents of the Certificates of Origin</u>.

(9) No evidence has been brought in to the effect that the appellant has played any role in the alleged contravention [which in itself is vague] by the overseas exporter.

(10) The cases laws are clear that once the Certificates of Origin have been submitted and their authenticity is not doubted, the Customs Officials in India cannot sit on the judgement on the contents of the same, at a much later date"

41. We have also gone to the amended provision of Section 28DA, which casts higher burden on the importer claiming the preferential rate benefit. This Section has been inserted in the Customs Act, 1962 with effect from 21st September 2020. The relevant portion is extracted below :

Section 28DA. Procedure regarding claim of preferential rate of duty. –

(1) An importer making claim for preferential rate of duty, in terms of any trade agreement, shall –

(i) make a declaration that goods qualify as originating goods for preferential rate of duty under such agreement;

(ii) possess sufficient information as regards the manner in which country of origin criteria, including the regional value content and product specific criteria, specified in the rules of origin in the trade agreement, are satisfied;

(iii) furnish such information in such manner as may be provided by rules;

(iv) exercise reasonable care as to the accuracy and truthfulness of the information furnished.

(2) The fact that the importer has submitted a certificate of origin issued by an Issuing Authority shall not absolve the importer of the responsibility to exercise reasonable care.

(3) Where the proper officer has reasons to believe that country of origin criteria has not been met, he may require the importer to furnish further information, consistent with the trade agreement, in such manner as may be provided by rules.

(4) Where importer fails to provide the requisite information for any reason, the proper officer may,-

(i) cause further verification consistent with the trade agreement in such manner as may be provided by rules;

(ii) pending verification, temporarily suspend the preferential tariff treatment to such goods: Provided that on the basis of the information furnished by the importer or the information available with him or on the relinquishment of the claim for preferential rate of duty by the importer, the Principal Commissioner of Customs or the Commissioner of Customs may, for reasons to be recorded in writing, disallow the claim for preferential rate of duty, without further verification.

42. We find that clarifying the above amendment, a Public Notice was issued by Nava Sheva Port, which is reproduced below :

F.No. S/22-Gen- 20/2020-21/AM (I)/JNCH
Dated: 10.09.2020 PUBLIC NOTICE NO. -114/2020-JNCH
DIN- 20200978NW00004T6948

Sub: Guidelines regarding implementation of section 28DA of the Customs Act, 1962 and CAROTAR, 2020 in respect of Rules of Origin under Trade Agreements

(FTA/PTA/CECA/CEPA) and verification of Certificates of Origin- reg.

Attention of all the Importers, Exporters, Custom Brokers, Shipping Lines/Agents, Logistics Service Providers, passengers, advocates, tax practitioners and authorized representatives and all other stakeholders is invited to Board's Circular No. 38/2020-Customs dated 21.08.2020 issued vide F.No.15021/18/2020 (ICD) on the above mentioned subject. Reference is drawn to Chapter VAA and section 28DA of the Customs Act, 1962, which has been inserted vide clause 110 of Finance Act, 2020, and to Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 (hereafter referred to as the CAROTAR, 2020) issued vide Notification No. 44 C/76046 & 76047 of 2015 81/2020-Customs (N.T.) dated 21st August, 2020.

1.1 The aforementioned section and rules aim to supplement the operational certification procedures related to implementation of the Rules of Origin, as prescribed under the respective trade agreements (FTA/PTA/CECA/CEPA) and notified under the customs notifications issued in terms of section 5 of the Customs Tariff Act, 1975 for each agreement.

1.2 The CAROTAR 2020 shall come into force on 21st September, 2020, to provide sufficient time for transition and to ensure that the prescribed conditions in terms of rule 4 are compiled with. Necessary modifications in bill of entry format are being made to allow declaration in terms of rule 3(a) and 3(d) of CAROTAR, 2020.

3. The Rules of Origin, by virtue of which goods attain origin of a country, have evolved with subsequent reviews of trade agreements. Most trade agreements have moved from single general rule to specific rule for most of the tariff lines, with inclusion of vast array of processes which can confer origin. <u>Section 28DA makes it incumbent upon an importer to possess sufficient information as regards the manner in which</u>

> country of origin criteria, including the regional value content and product specific criteria, specified in the Rules of Origin in the trade agreement, are satisfied. For this purpose, CAROTAR, 2020 has provided a form, containing list of basic minimum information which an importer is required to obtain while importing goods under claim of preferential rate of duty. Therefore, in case there is a doubt with regard to origin of goods, information would be first called upon from the importer of the goods, in terms of rule 5 read with rule 4 of CAROTAR, 2020, before initiating verification with the partner country in terms of rule 6.
>
> 3.1 Section 28DA of the Act further states that mere submission of a certificate of origin shall not absolve the importer of the responsibility to exercise reasonable care to the accuracy and truthfulness of the information supplied. Hence, the importer is required to provide information in terms of section 28DA(1) (iii) of the Act and as prescribed under CAROTAR, 2020, and has to take reasonable care to ensure the accuracy and truthfulness of the information furnished.

43. A careful reading of the amended Section 28DA along with the cited Public Notice, makes it amply clear that the importer would be responsible to give a proper Declaration in the prescribed format about the genuineness of the transaction and contents of the Certificate of Origin. He is also required to take steps to ensure that the information furnished in the Certificate of Origin is correct. In other words, the importer has been made responsible to obtain necessary details and conduct proper verification before the Certificate of Origin is presented to claim the beneficial treatment. It is clear that these clauses have come into effect from 21st September 2020 and prior to this no such Section 28DA existed in the Customs Act 1962.

44. We find that in the present case, all the imports were between 18.12.2019 to 06.02.2020, i.e., prior to the Section 28DA coming into force. Therefore, the appellants herein are not burdened with the additional requirement given so as to know the veracity of the overseas exporter as given in the Certificate of Origin.

45. A combined reading of the factual details of the verification of Certificates of Origin discussed and analysed in the above paragraphs, along with the ratio of the cited case laws, which are squarely applicable to the present appeals and the amended provisions of Section 28DA of the Customs Act 1962, makes us to come to a conclusion that Revenue's case doubting the veracity of the Certificate of Origin has no legs to stand on. Therefore, we set aside the impugned orders on this ground itself.

46. Coming to the issue of sample testing done on random basis at the time of investigation, we have compared the results of CRCL when the oil was tested on the date of import and the subsequent test results in respect of the six Bills of Entry.

Characteristics	Bill of Entry - Wise Test Results					
	6658085	6638098	6722988	6638097	6671787	6714795
Erucic acid (As per SCN)	0.0% of total fatty acid	0.0% of total fatty acid	0.0% of total fatty acid	0.0% of total fatty acid	0.4% of total fatty acid	0.0% of total fatty acid
Erucic Acid [As per CRCL Report on the date of import]	1.4	1.6	1.3	1.6	1.6	1.3

47. We fail to understand as to how the Erucic Acid content has been consistently held as 0% by the second Lab in all the six cases, even as the CRCL's report is showing some percentage [below 2%], which are different for different consignments. This makes us doubt the very authenticity of the test carried out by the Revenue.

48. Another interesting fact coming to light is that in respect of the following consignments out of 26 consignments, the CRCL's report shows the Erucic Acid content @ more than 2%:

Sl.No.	Bill of Entry No.	Date	Acid Value
1	6374613	07.01.2020	2.8
2	6402618	09.01.2020	2.3
3	6440895	13.01.2020	2.4
4	6537604	20.01.2020	2.4
5	6540635	20.01.2020	2.6
6	6401288	09.01.2020	2.5
7	6488503	16.01.2020	2.6
8	6278491	30.12.2019	3.2
9	6324527	02.01.2020	3.4
10	6357883	06.01.2020	3.8
11	6440899	13.01.2020	2.0

49. Not even a single sample has been drawn out of these 11 consignments. Probably knowing fully well that the result would be adverse to the Revenue's case, this method was adopted by them.

50. We have also gone through the case laws on the issue of a few samples being used to fasten the liability on different consignments. They are being discussed below:

- **2019 (369) E.L.T. 1524 (Tri. - Bang.) - CCC. EX. & S.T., CALICUT Vs JUPITER TRADING COMPANY -**

"5. After considering the submissions of the Learned AR and after going through the order passed by the Commissioner, we find that the Commissioner has passed a detailed and exhaustive order after considering each and every submission made by both parties. Further we find that the only ground on which the Revenue has filed the appeal is that the Commissioner should have confirmed the entire demand in the show cause notice but the Commissioner after examining the evidence and entire material on record has come to the conclusion that the samples have been drawn in respect of 14 items/ consignments in 7 Bills of Entry whereas the show cause notice proposes to apply the results of these test reports to 61 Bills of Entry during the period from 21-11-2005 to 12-4-2006. Further the Commissioner has observed that to make the test results applicable, all the parameters have to be similar, i.e. description of the goods, the supplier of goods, importer and the price of the goods should be the same. If any one of the parameters is changed, then the test results cannot be applied to those situations. Only when all the parameters are identical, it can be reasonably concluded that the goods were also identical. Further we find that since all the goods were not identical and therefore one test report cannot be applied for all the goods and the same has rightly been considered by the Commissioner. In view of the cogent and convincing reasoning given by the Commissioner with regard to each and every ground, we are of the considered opinion that there is no infirmity in the impugned order which we uphold by dismissing the appeal of the Revenue."

- **2001 (134) E.L.T. 285 (Tri. - Kolkata) - SHALIMAR PAINTS LTD. Vs CCE, CALCUTTA**

"7. The first grievance of the appellant is that though the classification lists in question covered about 30 products, test reports relatable to only 4 products are available and there is absolutely no material against the appellant in so far as the remaining 26 products are concerned. He submits that presuming though denying that the test reports of CRCL are correct, the same can be made the basis for classifying only those products to which the test report relates. The same cannot be made applicable to the other items for which no samples were either drawn or if samples were drawn, there is no test report. For this proposition he relied upon the Tribunal's decision in the case of S.D. Kemexc Indus. v. CCE - 1995 (75) E.L.T. 377. In the said decision assessee was manufacturing 22 different types of chemicals. The Department drew samples only from two types of chemicals. It was held that test reports can be made applicable only for the two products for which the samples were drawn and not to the rest of the products. Following the ratio of the above decision we fully agree with the contention of the ld. adv. that the tests, if at all could be made applicable only to the 4 items in question to which it belonged to. The balance 26 products would be classified under Heading 27.15 on the basis of the declarations made by the appellant which is based upon their technical literature as well as the production records and for which the Revenue has not adduced any evidence to shift the classification to heading 32.10.

51. Applying the ratio of the cited case laws to the facts of the present case, we hold that the act of a few samples being tested for the second time, without giving any further opportunity to the appellants to get them re-tested is a case of gross error on the part of the Revenue. We also note the in many cases CRCL found the Erucic Acid value to be more than 2%. Therefore, the Revenue's attempt to apply the lab

result of the second sample taken for a few consignments to all the consignments, cannot be legally sustained. The impugned order is set aside even on this ground also.

52. Now we come to the issue of the time-bar raised by the appellants. The factual details discussed in the earlier paragraphs clarify that:

(a) All the documents claiming the SAFTA benefit were made available to the Revenue at the time of imports.

(b) The required Lab test was conducted and the goods were allowed to be cleared in the normal course under the finalized Bills of Entry.

(c) The Revenue took more than 2 years to take up the subsequent testing of the samples, which was already available with them.

(d) No instance of connivance of the appellants in getting the Certificate of Origin fraudulently has been brought in by the Revenue.

(e) Checking up of the veracity of the Certificate of Origin has been independently taken up by the DRI / Revenue. The Exporting County has stood by the COOs issued by their officials.

53. In view of the above observations, we conclude that Revenue has failed to bring in even an iota of evidence to fasten the larger period provisions on the appellant, so as to invoke the same to confirm the demand. Therefore, we hold that the entire proceedings are time-barred.

54. Having decided the issue both on merits as well as on account of limitation, we turn our attention some other points canvassed by the appellants.

55. As per the appellants, the re-determination of Section 17(5) is to be done by the officer who as assessed the Bill of Entry [the AC / DC], whereas in this case the Commissioner has taken up the re-determination. The SCN has been issued in October 2022 in respect of the consignments imported during the period 18.12.2019 to 06.02.2020, by invoking the extended period provisions of Section 28 (4), whereas the Adjudicating authority has re-determined the classification, falling under Section 17(5), which was not the proposal in the SCN.

56. Another issue canvassed by the appellants is about non-filing of the Appeal before the Commissioner (Appeals) against the self-assessed Bills of Entry. As per the appellant, the Revenue, if it was aggrieved by the self-assessment should have filed an appeal before the Commissioner (Appeals) as has been held by the Hon'ble Supreme Court in the case of **ITC Ltd. v. CCE, Kol-IV [2019 (368) ELT 216 (S.C.)].**

57. We find these issues to be more or less inter-linked. We observe that Section 17 deals with assessment and re-assessment whereas Section 28 deals with the Recovery of Duties. The Section 17(4) of the CA 1962 reads as under:

> Section 17 (4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, <u>the proper officer may, without prejudice to any other action which may be taken under this Act</u>, re-assess the duty leviable on such goods.

58. The above specific provision of Section 17(4), makes it clear that the re-assessment is to be carried out *without prejudice to any other action*, which makes it open for the Revenue to invoke Section 28 to demand the duty under the category of short payment / non-payment. Therefore, in the present case when the Adjudicating authority has taken upon himself to demand the duty on account of re-classification, since the involved duty demand is required to be done at Commissioner's level only, probably he has first held that he is assessing the self-assessed Bill of Entry as per the classification proposed by the Revenue and then he has gone ahead and adjudicated the demand under Section 28 while passing the order. Since the appellant has been given opportunity to make their submissions on all the issues concerned and to attend the PH, we do not take this to be any kind of error on the part of the Revenue to jeopardize the present proceedings.

59. While we find force in the appellants' argument that the ITC's decision of the Supreme Court is equally applicable to the Revenue also, we have to observe the ground reality also. In the normal course, the Appeal is required to be filed within 3 months from the date of filing of the self-assessed Bill of Entry. In the normal course, two options would be available to the Revenue. The first one is to re-assess the self-assessed Bills of Entry to quantify the demand under Section 17 (4) & (5). The second option is to file an appeal before the Commissioner (Appeals) under Section 128. In case of re-assessment, the same is to be done immediately and a speaking order is to be issued within 15 days from the date of re-assessment. In case of an Appeal, the same is required to be filed within 60 days [plus the condonable period of 30 days]. But if the Revenue gets some information about the contravention, in such cases the Revenue's resorting to Section 28 to issue the SCN towards recovery of demand, will not have any adverse effect on the case. It would be for the noticee to counter that no case of suppression has been made out against them. Therefore, in the present case, we do not subscribe to the appellant's argument that it was necessary for the Revenue to file their Appeal before the Commissioner (Appeals). Based on the factual details discussed supra, we have already held that no case of suppression has been made out against the appellants and we have set aside the confirmed demand for the extended period on account of time-bar.

60. To summarize: -

(a) The Certificate of Origin, sent by Indian officials for verification to the Bangladesh Officials, have been certified by Bangladesh officials to be correct towards the contents therein. The DRI has no authority to question the COOs issued and duly affirmed by Bangladesh, as has been consistently held by the Tribunals in the cited case laws. On this ground, the demands stand set aside.

(b) The Samples collected and tested at the time of import by CRCL show more than and less than 2% of Erucic Acid. The Revenue cannot be selective to choose only a few samples, get them tested and apply the result of a few consignments for of all the consignments in question. Tribunals have held that the results of such part sample-testing cannot be used for all the consignments in question. Even on this ground, the demands stand set aside.

(c) All documents for claiming the Duty exemption have been provided by the appellants at the time of imports. The goods were lab tested by CRCCL and the results were reflected in the website even before the Out of Charge was issued. No link of the appellants has been established by the Revenue with the purported non-fulfilment of SAFTA conditions in the COOs issued. Hence, the confirmed demand for the extended period stand set aside.

61. The appeals stand allowed, setting aside all the demands, interest thereon and penalties imposed. The appellants would be eligible for consequential relief, if any, as per law.

(Order pronounced in the open court on **27.04.2026**)

Sd/-
(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/-
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd/RKP