

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI**

REGIONAL BENCH - COURT NO. 01

Customs Appeal No. 86644 Of 2022

(Arising out of Order-in-Appeal No. 613 (Gr.I/IA)/2022(JNCH)/Appeals dated 27.06.2022 passed by Additional Commissioner of Customs, Gr.I & IA, NS-I, JNCH Nhava Sheva)

.....Appellant

M/s Wiser Foods

G 96 Basement Kalkaji, New Delhi,
New Delhi-110019.

VERSUS

**Commissioner of Customs
(Import) Nhava Sheva**

Jawaharlal Nehru, Custom House,
Taluka Uran, Nhava Sheva

.....Respondent

Appearance:

Shri Priyadarshi Manish, Advocate for the Appellant

Shri Ram Kumar, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S K MOHANTY, MEMBER (JUDICIAL)

HON'BLE MR. C J MATHEW, MEMBER (TECHNICAL)

FINAL ORDER NO. A/86316/2022

Date of Hearing: 23.12.2022

Date of Decision: 23.12.2022

PER : S. K. MOHANTY

This appeal is directed against the impugned order dated 27.06.2022 passed by the learned Commissioner of Customs (Appeals), Mumbai-II. Vide the said impugned order, the learned Commissioner (Appeals) has held that the original order passed by the Additional Commissioner for provisional release of goods with the conditions mentioned therein, is in conformity with Section 110A of the Customs Act, 1962. Accordingly, the impugned order has upheld the original order dated 25.04.2022 and rejected the appeal filed by the appellant.

2. Heard both sides and perused the records.

3. When the matter was called for hearing, learned Advocate appearing for the appellant submitted the order dated 29.08.2022 passed by the Hon'ble Bombay High Court in the Writ Petition No.10314 of 2022. Vide paragraph 8 in the said judgment, the division bench of the Hon'ble High Court were pleased to pass the following order:

- "(a) Petitioner shall give a bank guarantee of a nationalized bank/scheduled bank in the sum of Rs.59,67,005/- towards the differential duty together with interest thereon at the rate of 6% per annum to the satisfaction of the adjudicating authority.*
- (b) Petitioner shall execute a Bond for the full value/estimated value of the subject goods which is Rs.3,68,89,474/- as per the form prescribed by the concerned Department."*

4. On perusal of the order dated 29.08.2022 of the Hon'ble Bombay High Court, we also find that the conditions provided therein have also been accepted by the learned Advocate for the present appellant. In view of the fact that the appellant herein has accepted the conditions for provisional release of the goods, we are of the considered opinion that nothing survives in this appeal for consideration by the Tribunal at this juncture.

5. Therefore, appeal filed by the appellant is dismissed as *infructuous*.

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

(S K Mohanty)
Member(Judicial)

(C J Mathew)
Member (Technical)