

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI
REGIONAL BENCH, COURT NO. 5**

EXCISE APPEAL NO. 90206 OF 2014

(Arising out of Order-In-Original No.
06ANS/06/FINE/ORG/REMISSION/K/IV/TH-I/2014 dated 08.10.2014 passed
by Commissioner of CE, Thane-I.)

FINE ORGANIC INDUSTRIES

Plot no. A-122-125, MIDC,
Phase-I, Dombivali (E),
Thane- 421 203.

Appellant

Vs.

COMMISSIONER OF CENTRAL EXCISE, THANE-I

4th Floor, Navprabhat Chambers,
Ranade Road, Dadar (W),
Mumbai- 400 028.

Respondent

Appearance:

Shri Kavish Shah, Chartered Accountant for the Appellant.

Shri Amrendra Kumar Jha, Deputy Commissioner, Authorized Representative
for the Respondent.

CORAM:

HON'BLE MR. ANIL.G.SHAKKARWAR, MEMBER (TECHNICAL)

Date of Hearing: 05.03.2024

Date of Decision: 05.03.2024

FINAL ORDER – 85273/2024.

PER : ANIL.G.SHAKKARWAR

Heard both sides and perused the record.

2. Appellant had filed a claim for remission of Rs.7,91,524/- being central excise duty involved in respect of finished goods which were destroyed in fire on 22.10.2009 due to an accident in the factory of the appellant. The said claim was filed under Rule 21 of Central Excise Rules, 2002. Learned original authority has relied on a report by Deputy Director, Industrial Safety who in his report on fire accident as stated that the accident took place due to absence of safety device. Learned original authority has taken the said report into consideration and rejected the claim of remission. Aggrieved by the said order, appellant is before this Tribunal.

3. Learned counsel for the appellant has submitted that Municipal Corporation in its report dated 03.11.2009, a copy of which in local language

is enclosed at page No.27 of appeal paper book has recorded that fire extinguishers were available in the factory. He has also pointed out that the surveyor of the Insurance Company has analysed the cause of fire, which is at page No.38 of appeal paper book as choking of reactor leading to development of pressure in the reactor resulting in fatty acid in the reactor reaching flash point causing fire. Learned counsel for the appellant has submitted that which safety was required has not been identified, specified or indicated by the learned Deputy Director, Industrial Safety and, therefore, that report alone was not sufficient to reject the claim.

4. Heard the learned AR who has supported the impugned order.

5. I have carefully gone through the record of the case and submissions made. I note that the learned original authority has chosen only one sentence from the entire set of papers to disallow the claim. In the opinion of this Tribunal, learned original authority was required to take into consideration all the documents submitted before him and then take a decision. Learned counsel for the appellant has pointed out that the Deputy Director, Industrial Safety has not given any opinion as to which safety device was absent causing fire. I, therefore, hold that the impugned order is not based on the fullest consideration of all the material that was placed before the original authority. I, therefore, set aside the impugned order and allow the claim of remission as applied for to the appellant.

6. In above terms, appeal is allowed.

(Dictated and pronounced in open court.)

(ANIL.G.SHAKKARWAR)
MEMBER (TECHNICAL)