CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI
WEST ZONAL BENCH

Customs Early Hearing Application No. 86231 of 2024

in

Customs Appeal No. 87055 of 2024

(Arising out of Order-in-Original No. F.No.S/6-GEN-03/1994/2021-22/CEAC dated 30.12.2021 passed by the Asstt.Commissioner of Customs, JNCH, Nhava Sheva)

M/s. Tasty Bite Eatables Ltd. **…..Appellant**
201-202, Mayfair Tower, Wakdewadi,
Shivajinagar, Pune

Vs.

Commissioner of Customs, Nhava Sheva **…..Respondent**
JNCH, Nhava Sheva, Tal. Uran, Dist.Raigad

WITH

Customs Early Hearing Application No. 86232 of 2024

in

Customs Appeal No. 87056 of 2024

(Arising out of Order-in-Original No. F.No.S/6-GEN-03/1859/2021-22/CEAC dated 30.05.2022 passed by the Asstt.Commissioner of Customs, JNCH, Nhava Sheva)

M/s. Tasty Bite Eatables Ltd. **…..Appellant**
201-202, Mayfair Tower, Wakdewadi,
Shivajinagar, Pune

Vs.

Commissioner of Customs, Nhava Sheva **…..Respondent**
JNCH, Nhava Sheva, Tal. Uran, Dist.Raigad

APPEARANCE:

Shri Anupam Dighe, Advocate for the appellant
Shri Ram Kumar, AC(AR) for the respondent

CORAM: **Hon'ble Mr C J Mathew, Member (Technical)**
Hon'ble Mr Ajay Sharma, Member (Judicial)

FINAL ORDER No: 86854-86855/2024

DATE OF HEARING: 12-11-2024
DATE OF DECISION : 12-11-2024

Per: Coram

These applications seek 'out of turn' disposal of appeal nos. C/87055/2024 & C/87056/2024 against orders[1] of Commissioner of Customs, JNCH, Nhava Sheva that rejected their application for amendment of shipping bills along as also documents filed in support of shipping bills in terms of section 149 of Customs Act, 1962.

2. Learned Counsel for applicant submits that issue stands covered by the decision of the Hon'ble High Court of Bombay in *Pinnacle Life Science Pvt Ltd v. Union of India [(2024) 16 CENTAX 640 (Bom.)]* on all forms.

3. We have heard Learned Authorised Representative.

4. Accordingly, we allow these applications.

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[1] order-in-original no. F.No.S/6-GEN-03/1994/2021-22/CEAC dated 30th December 2021 & order-in-original no. F.No.S/6-GEN-03/1859/2021-22/CEAC dated 30th May 2022

5. With consent of both sides, we take up the appeal itself for disposal as resolution of the dispute lies within a narrow compass.

6. We find that the Hon'ble High Court of Bombay in *re Pinnacle Life Science Pvt Ltd* has set out the scope and limits of section 149 of Customs Act, 1962. Thus

> '*6. In our view such a circular could not have been issued by the Central Board of Excise & Custom (CBEC) providing for three months time period to make a request for amending the shipping bills. This is because in Section 149 of the Act no time period has been prescribed and if in any specific statutory provision of law, no time period has been prescribed, then such circular could not have been issued by the CBEC. As rightly submitted by Mr. Namboodiri where the legislature wanted to prescribe any time limit for taking action like Section 128, 129 and 130 etc., of the Act, such time limit has been specifically laid down in the relevant provisions of the Act. When no time limit for making a request for amendment of any document is specified under Section 149 of the Act, it is clear that the legislature has not thought fit to restrict the scope of this provision for the amendment of the documents in terms of the time limit for making a formal request for such amendment. Moreover, Section 149 of the Act or any other provision of the Act does not confer any power or jurisdiction over the Board for laying down any time limit for operating this provision in respect of the amendment of documents. Therefore in our view the time limit of three months laid down vide paragraph no.3(a) of the circular is especially illegal and without jurisdiction. We find support for this view in a*

judgment of the Hon'ble Gujarat High Court at Ahmedabad in the matter of Messrs Mahalaxmi Rubtech Ltd. vs. Union of India [Special Civil Application No. 21636 of 2019, dated 2-3-2021].

7. In the circumstances, we hereby quash and set aside the impugned communication dated 30th December, 2021. Respondent No.3 is directed to consider the amendment application without raising an issue of time limit and dispose the amendment application on merits and in accordance with law. This application shall be disposed within six weeks from today.'

7. On perusal of the facts, we find that the law stands settled against the decision in the impugned order. Accordingly, appeals are allowed to restore the application before the original authority for fresh disposal in accordance with the provisions of the statute and law as judicially determined.

(Dictated and pronounced in open Court)

(Ajay Sharma)
Member (Judicial)

(C J Mathew)
Member (Technical)

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