CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 85422 of 2019

(Arising out of Order-in-Appeal No. NA/GST A-III/MUM/137/18-19 dated 27.06.2018 passed by the Commissioner (Appeals)-III of GST & CX, Mumbai).

M/s Sonic Chemicals **.... Appellant**
102, Shreemad Gokul, 1st Floor,
Behind MCF Club, Borivali (W),
Mumbai – 400 092

Versus

Commissioner of GST & CX, Mumbai-III **.... Respondent**
9th Floor, Piramal Chambers, Jijibhoy Lane,
Lalbaug, Mumbai – 400 012

Appearance:

Shri Lilesh P. Sawant, Advocate for the Appellant
Shri Dinesh Nanal, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. A/85340/2025

Date of Hearing: 12.03.2025

Date of Decision: 12.03.2025

PER: S.K. MOHANTY

Heard both sides and perused the case records.

2. Briefly stated, the facts of the case are that the appellant is engaged in the manufacture of Hygiene Chemicals, falling under Chapter Heading 3402 of the First Schedule to the Central Excise Tariff Act, 1985. During the disputed period, the appellant had undertaken the activities of repacking the said goods from the bulk pack to retail packs and also labeled the container in their manufacturing unit. Since, as per the provisions of Chapter Note 6 to Chapter 34, the activities of labeling or re-labeling of container or repacking from bulk pack to retail pack, etc. were considered as deemed manufacturing activity, the Department had initiated show-cause proceedings against the appellant, seeking for confirmation of the duty demand on such activities undertaken by them. The matter arising out of the show-cause notice dated 24.07.2017 was adjudicated vide order

dated 29.11.2017, wherein the original authority had confirmed central excise duty demand of Rs.23,71,321/- along with interest and also imposed penalty of Rs.5,92,830/- on the appellant. Further, the original order has also confiscated the goods valued at Rs.55,12,325/- and imposed redemption fine of Rs.11,02,465/- in lieu of such confiscation. On an appeal against the adjudication order dated 29.11.2017, the learned Commissioner (Appeals) vide the impugned order dated 27.06.2018 has upheld confirmation of the adjudged demands and rejected the appeal filed by the appellant. Feeling aggrieved with the impugned order, the appellant has preferred this appeal before the Tribunal.

3. It is an admitted fact on record that the activities undertaken by the appellant in their factory premises of labeling/re-labeling and affixing of stickers in the factory on the disputed goods amounts to manufacture as per Note 6 to Chapter 34. Thus, the appellant has accepted the duty liability on such activity undertaken by them. Further, it is not the case of Revenue that the appellant did not deposit duty along with interest and had also paid penalty imposed in the adjudication order. The present appeal was preferred by the appellant solely on the ground that there is no provision exists in the Central Excise statute for imposition of redemption fine. We find substance in the arguments placed by the appellant that no such provision exists in the Central Excise statute for imposition of redemption fine in lieu of confiscation of the goods. Thus, in absence of any specific provisions having been made in the statute, the action on the part of the authorities below, in confirming the redemption fine on the appellant cannot be sustained for judicial scrutiny.

4. In view of the above, we do not find any merits in the impugned order, insofar as it has upheld confirmation of the redemption fine imposed on the appellant. Therefore, the impugned order to such extent is set aside and appeal is allowed in favour of the appellant.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha