CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 87245 OF 2017

[Arising out of Order-in-Original No: 04/2017-18/Commr./NS-III/JNCH dated 28th April 2017 passed by the Commissioner of Customs (NS-III), Nhava Sheva.]

Syngenta India Ltd
C/o Agro Pack, 155/1, GIDC Estate, Unit-II
Ankaleshwar, Bharuch 393 002 … ***Appellant***

versus

Commissioner of Customs (NS-III)
Jawaharlal Nehru Customs House, Nhava Sheva
Tal: Uran, Dist: Raigad - 400707 ***…Respondent***

APPEARANCE:

Shri T Vishwanathan and Shri Akhilesh Kangasia, Advocatea for the appellant

Shri Ram Kumar, Deputy Commissioner (AR) for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)
HON'BLE MR AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO: 85983/2025

DATE OF HEARING: 22/11/2024
DATE OF DECISION: 13/05/2025

PER: C J MATHEW

M/s Syngenta India Ltd is before us against order[1] of Commissioner of Customs (NS-III), Nhava Sheva, in which, in

[1] [order-in-original no, 04/2017-18/Commr./NS-III/JNCH dated 28th April 2017]

imports *vide* 47 bills of entry, consignments of ‘ISABION’ were re-assessed to recovery of differential duty of ₹ 2,29,17,687 under section 28 of Customs Act, 1962, along with interest thereon under section 28AA of Customs Act, 1962, besides imposition of penalty of like amount under section 114A of Customs Act, 1962, as well as the provisional assessment in five bills of entry finalized by re-assessment of duty to ₹ 45,55,930 and the goods therein confiscated under section 111(m) of Customs Act, 1962 but permitted to be redeemed on payment of fine of ₹ 25,00,000 under section 125 of Customs Act, 1962 while imposing penalty of like amount under section 114A of Customs Act, 1962 and of ₹ 30,00,000 under section 114AA of Customs Act, 1962.

2. The issue in dispute leading to the proceedings was appropriateness of the declaration that the goods merited coverage as ‘fertilizer’ and sought to be cleared at rate of duty corresponding to tariff item 3101 0010 of First Schedule to Customs Tariff Act, 1975 that was proposed to be reclassified as ‘plant growth regulator’ liable to rate of duty corresponding to tariff item 3808 8340 of First Schedule to Customs Tariff Act, 1975.

3. Learned Counsel for the appellant submitted that the impugned proceedings under Customs Act, 1962 had been initiated following adjudication of dispute on classification of the same goods upon re-

packing by M/s Agro Pack, and was re-determined to liability at rate of duty applicable to ‘plant growth regulator’ in tariff item 3808 9340 of Schedule to Central Excise Tariff Act, 1985. It was further submitted that the ‘mother’ dispute of M/s Agro Pack had come up before a Larger Bench of the Tribunal, in *M/s PI Industries Ltd and others v. Commissioner of Central Excise & Customs, Surat-II [2024 (9) TMI 1655 –CESTAT AHMEDABAD (LB)]*, which held that

> *‘50. The two products, namely, Siapton 10L and Isabion merely provide nutrients to the plant. They do not alter the physiological processes in a desired direction. In other words, the amino acids and the nitrogen present help in cell building exercise, and thereby, help the plant grow using the nutrients (nitrogen, phosphorus and potassium). Therefore, the two products Siapton 10L and Isabion are in the nature of fertilizers (bio-stimulants) and not plant growth regulators.*
>
> *51. The aforesaid discussion leads to the inevitable conclusion that the Division Bench, while referring the matter to the Larger Bench, was not justified in distinguishing the earlier decision of the Tribunal in Northern Minerals. The two products, namely, Siapton 10L and Isabion deserves classification as fertilizers under ETI 3101 00 99 and not as plant growth regulators under ETI 3808 93 40.’*

It was, therefore, contended by Learned Counsel that the issue stands resolved insofar as the classification of the imported goods too are concerned.

4. We have heard Learned Authorized Representative who

reiterated the findings in the impugned order.

5. Recourse to tariff item enumerated in chapter pertaining to ‘fertilizer’ in appropriate schedule of both Customs Tariff Act, 1975 and Central Excise Tariff Act, 1985 is, invariably, susceptible to disputes as goods, covered by description as ‘fertilizer’ that, owing to its special role in the economic growth of a country, merits privilege of duty abatement, does not exclude, save by statute or notes to chapter, alternative coverage among ‘chemicals’ that may not be so privileged. By convention, ‘usage’, often evidenced by recognition in law through executive instrument or by the differentiation permitted by the notes to chapter 31 of First Schedule to Customs Tariff Act, 1975, is the criterion for the privilege and for classification. With the initiation of proceedings under Customs Act, 1962 in the present dispute, unquestionably, attributed to the proceedings concluded against M/s Agro Pack under the central excise jurisdiction, having attained finality in the latter through reference to a Larger Bench of the Tribunal in *re PI Industries Ltd*, the classification therein should be no less applicable to the present dispute.

6. Though the impugned order, of itself, records genesis of the dispute, the facts, pertaining to the imports, were not of concern to the Larger Bench nor conformity thereof found necessary to be dwelt upon in the impugned order. Consequently, it would be appropriate

for the dispute under Customs Act, 1962 to be revisited by the adjudicating authority in the light of the decision of the Larger Bench of the Tribunal to the extent of applicability to the facts in the dispute and absence of conflict, if any, with Customs Tariff Act, 1975. Accordingly, we set aside the impugned order and remand the matter back to the original authority for fresh decision on the proposals in show cause notice in accordance with the findings of the Larger Bench of the Tribunal in *re PI Industries Ltd.*

7. Accordingly, appeal is allowed by way of remand.

(Order pronounced in the open court on 13/05/2025)

(AJAY SHARMA)
Member (Judicial)

(C J MATHEW)
Member (Technical)

**/as*