CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH, MUMBAI

Customs Appeal No. 87052 of 2022

(Arising out of Order-in-Appeal No. 570 (CRC-I)/2022(JNCH)/Appeals dated 21.06.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

M/s World Chem Industries ....Appellant
Plot No. C1, B 407/4,
Opposite Achechem Ltd., Phase-I,
GIDC, Panoli, Taluka Ankleshwar,
District – Bharuch, Gujarat – 394 116

VERSUS

Commissioner of Customs, Nhava Sheva-III ....Respondent
JNPT, Customs House,
Nhava Sheva, Raigad,
Maharashtra – 400 707

APPERANCE:

Shri Prashant Patankar, Consultant for the Appellant
Shri Krishna Azad, Assistant Commissioner, Authorised Representative for the Respondent

CORAM:

HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO. 86835/2025

Date of Hearing: 18.11.2025
Date of Decision: 18.11.2025

Appeal is heard from both the sides.

2. Learned Counsel for the Appellant submits that learned Commissioner (Appeals) had passed ex-party order without serving any notice on the Appellant and their refund, that had arisen in consequence to re-assessment of Bill of entry, was refused by the Refund Sanctioning Authority solely on the ground that Appellant had

not produced GSTR-3B Return to establish that Appellant had not taken input tax credit on the differential IGST paid after the initial assessment was made but going by Accounting Rules, when Appellant had mentioned that ₹2,87,692/- was receivable from Government in its Books of Account and a Chartered Accountant certificate was produced to that effect, there was no reason as to why the entire refund amount, out of which IGST component being ₹43,885/-, should have been refused to the Appellant. He further submits that since learned Commissioner (Appeals) had passed the order ex-party and Section 128A(3) entitled him to make such further enquiry as may be necessary before passing the order, matter may be remanded back for re-hearing by the Commissioner (Appeals) before whom Appellant would be able to produce copy of GSTR-3B Return and Chartered Accountant certificate with a statement that they have not availed any such input tax credit on the excess amount deposited.

3. Learned Authorised Representative takes note of the submission. He objects to such submission on the ground that order passed by the Commissioner (Appeals) would go to reveal that three hearing notices was sent to the Appellant but Appellant had not appeared. He further submits that the Appellant has submitted Chartered Accountant certificate and that GSTR-3B return before this Bench, without express permission obtained from the Bench, for which the certificate need not be taken as additional piece of evidence though he is not against the order of remand to be passed by this Tribunal for acceptance of those documents by the Commissioner (Appeals) and for passing necessary order on such refund sought by the Appellant.

4. I have gone through the appeal paper book, submission made by the parties and documents produce before this Bench. I am of the considered opinion that for an amount of ₹43,885/- that was supposed to be IGST component, the entire differential duty amount of ₹2,87,692/- that was calculated after re-assessment should not have been denied to the Appellant, since in such an occasion, Department's

liability in paying interest would be huge. However, as the learned Commissioner (Appeals) has passed his order ex-party and there is no proof of service of hearing notice available in the case record, matter is required to be remanded back to the Commissioner (Appeals) so as to enable him to pass order under Section 123A(4) in stating the point for determination, the decision thereon and the reason for decision after making such further enquiry as noted above and hearing both the parties on merit. Hence the order.

THE ORDER

5. The appeal is allowed by way of remand with the above observation and the order passed by the Commissioner of Customs (Appeals), Mumbai-II *vide* Order-in-Appeal No. 570 (CRC-I)/2022(JNCH)/Appeals dated 21.06.2022 is hereby set aside.

(Dictated & pronounced in the open Court)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

Prasad