CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. III

Customs Appeal No. 41483 of 2016

(Arising out of Order-in-Appeal Seaport C.Cus. II No.202/2016 dated 25.02.2016 passed by Commissioner of Customs (Appeals-II), 60, Rajaji Salai, Custom House, Chennai 600 001.)

M/s.Tarajyot Polymers Limited .... Appellant
16A, Chowringhee Mansions,
30, 2nd Floor, Jawaharlal Nehru Road,
Kolkata 700 016.

VERSUS

The Commissioner of Customs
Chennai-II Import Commissionerate ... Respondent
Custom House,
60, Rajaji Salai,
Chennai 600 001.

APPEARANCE :

Shri R. Anish Kumar, Advocate for the Appellant
Smt. O.M. Reena, Authorized Representative for the Respondent

CORAM :

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER No.40531/2026

DATE OF HEARING : 28.01.2026
DATE OF DECISION :24.04.2026

Per: Shri P. Dinesha

Brief facts of this Appeal as could be noticed from the impugned Order-in-Appeal No. 202/2016 dated 25.02.2016 are reproduced verbatim for convenience :

> 'Briefly stated facts of the case are that on the basis of information received regarding irregular exports and obtaining of DFIA licenses on the basis of the said exports to get undue benefits of import duty exemption, investigations were conducted against several exporters viz. M/s.Pan Parag India Ltd., Kanpur, M/s.Kothari Products Ltd., Kanpur, M/s.Kothari Food and Fragrances, Kanpur and M/s.Shiv Shakthi Agri Foods Ltd., Delhi by DRI Lucknow; that during the course of investigations it was found that the above mentioned exporters have contravened the provisions of Para 4.55.3 of Handbook of Procedure Vol.I of Foreign Trade Policy (FTP) (2004-08) as well as Para 4.32.2 of Handbook of Procedure Vol.I of FTP (2009-14) which enjoins them to disclose the technical characteristics, quality and specification of the essential oil said to have been used in the manufacture of the pan-masala/gutkha in their shipping bills at the time of export and thereafter while applying for the Duty Free Import Authorization (DFIA) Licenses under Chapter 4 of FTP 2004-09 and FTP 2009-2014; that on completion of the export obligation, the said DFIA

> Licenses were made transferable; that Regional Licensing Authority, Kanpur has issued SCN dated 18.07.2012 to M/s.Pan Parag India Ltd., Kanpur, M/s.Kothari Products Ltd., Kanpur and M/s.Kothari Food and Fragrances, Kanpur proposing cancellation of DFIA licenses and imposition of penalty as per provisions of FTDR Act, 1992. In respect of M/s.Shiv Shakthi Agro Foods Ltd., Delhi, out of 19 licenses issued to them 13 licenses were cancelled on 17.02.2012 and in respect of 6 licenses SCN has been issued by DGFT on 16.07.2012'.

2. A perusal of the Order-in-Original No.43060/2015 dated 18.11.2015 reveals that the Appellant had availed the benefit of duty free imports under DFIA licenses issued to the exporter M/s.Pan Parag India Ltd., Kanpur, who, in response to summons, had furnished the details of imports along with the assessed Bills of Entry and also all other import-documents like Manufacturer/Supplier's invoices filed under the DFIA licenses of the exporter. Details of the said import have been tabulated at para-8 of the Order-in-Original which remains undisputed. The above prompted the Revenue to apprehend that there was short-payment of import duty since, according to the Revenue, the DFIA licenses appeared to have been issued on the strength of

manipulated export documents/fraudulent export undertakings and hence, the export incentives, benefits appeared to be inadmissible. The Appellant appears to have filed a reply *inter alia* contending that it is only a *bonafide* purchaser, as on the date of clearance of imported granules by them and also as on the date of issue of notice, the DFIA licenses was very much valid and, therefore, the imports made by them under the licences in question could not be impeached as illegal. In this regard, the Appellant appears to have relied upon various case law in support. It also appears that the Appellant also took a plea that the SCN having been issued 2½ after the date of imports, the demand is clearly barred by limitation even within the meaning of Section 28 of the Customs Act, 1962 and the demand is also not sustainable since there is no allegation as to suppression of facts for invoking the extended period of limitation.

3. The Original Authority appears to have considered their explanation but, however, *vide* Order-in-Original No.43060/2015 dated 18.11.2015 confirmed the demand proposed in the SCN, against which, the Appellant approached the First Appellate Authority by filing an Appeal

and the First Appellate Authority also having dismissed their Appeal on merits without considering the plea as to the limitation, the present Appeal has been filed before this forum.

4. Heard Shri R. Anish Kumar, ld. Advocate for the Appellant, who, contended at the outset, that the demand is clearly barred by limitation since the SCN does not even allege suppression of facts with an intent to evade duty and that the same having been issued 2½ years after the date of actual imports, the demand confirmed in the Order-in-Original and upheld in the impugned order, cannot sustain. In the synopsis/written submissions filed during the course of hearing, the ld. Advocate has also restricted his plea only to the demand being barred by limitation. In this regard, Ld. Advocate has relied on the following case law :

(i) **Commissioner Vs Leader Values Ltd**. [2008 (227) ELT A29 (SC)]

(iii) **Pee Jay International Vs Commissioner of Customs** [2016 (340) ELT 625 (P&H)]

(iii) **Commissioner of Customs Vs Leader Valves Ltd**. [2007 (218) ELT 349 (P&H)]

(iv) **Binani Cements Ltd. Vs Commissioner of Customs, Kandla** [2010 (259) ELT 247 (Tri.-Ahmd.)]

(v) **Commissioner of Customs, Amritsar Vs Gopi Chand Krishnan Kumar Bhatia** [2013 (295) ELT 739 (Tri.-Del)]

5. *Per contra*, Smt. O.M. Reena, ld. Additional Commissioner for the Revenue relied on the impugned order.

6. Having heard both sides, we find that the only issue to be decided is, 'whether the demand upheld in the impugned order is sustainable on limitation ?'

7. The facts are not in dispute, SCN is dated 26.11.2014 and the imports in question were effected on 17.05.2011, it is also an undisputed fact that cancellation of the licenses by DGFT was only on 17.02.2012, which is much after the imports in question. Section 28 *ibid* prescribes a period of 1 year for the recovery of short-payment of duty but here, as contended by the Appellant, SCN is issued clearly after 2½ years. Moreover, perusal of the SCN also reveals that there is no allegation of suppression. We also find that there is no discussion at all on the aspect of limitation in the impugned

order and hence, we have to agree with the contention that there is no basis for the Revenue to allege suppression, to invoke extended period of limitation. In this regard, we find that the decisions/orders relied upon by the Appellant support our above view.

8. In view of the above, we are satisfied that the demand has been confirmed by invoking the extended period of limitation but, however, there is no evidence placed on record to indicate suppression of facts, much less, with an intent to evade duty and hence, the impugned order cannot sustain.

9. In the result, the Appeal is allowed on limitation with consequential benefits, if any, as per law.

(Order pronounced in open court on 24.04.2026)

sd/- sd/-

(VASA SESHAGIRI RAO) **(P. DINESHA)**
Member (Technical) Member (Judicial)

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