CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. III

Customs Appeal No. 41767 of 2016

(Arising out of Order-in-Original No.44358/2016 dated 29.01.2016 passed by Commissioner of Customs, Chennai-IV, Custom House, No.60, Rajaji Salai, Chennai 600 001)

The Commissioner of Customs,
Chennai-IV **... Appellant**
60, Rajaji Salai,
Custom House,
Chennai 600 001.

VERSUS

M/s. Jain Exim, **.... Respondent**
Jain Arcade,
42, Old Tharagupet,
Bangalore 560 053.

APPEARANCE :

Shri Anoop Singh, Authorized Representative for the Appellant
Shri S. Murugappan, Advocate for the Respondent

CORAM :

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)

FINAL ORDER No.40925/2026

DATE OF HEARING : 17.07.2026
DATE OF DECISION : 05.08.2026

Per: Shri P. Dinesha

Facts of the case which are undisputed as could be gathered from the impugned Order-in-Original 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 appear to have been conducted against several exporters viz. M/s. Pan Parag India Ltd., Kanpur, M/s. Shiv Shakti Agro Foods Pvt. Ltd., Delhi by DRI, Lucknow. The investigations appear to have unraveled the contraventions of 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) by the exporters named above 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. The investigating team appears to have even found that on completion of the Export Obligation, the said DFIA Licenses were made transferable; that Regional Licencing Authority, Kanpur had issued SCN/s dated 22.03.2013 & 04.07.2013 to M/s. Pan Parag India Ltd., Kanpur and M/s. Shiv Shakti Agro Foods Pvt. Ltd., Delhi respectively proposing cancellation of DFIA licences and imposition of penalty as per provisions of FTDR Act, 1992. It further emerges that in respect of one of the exporters viz. M/s. Shiv Shakthi Agro Foods Ltd., Delhi out of 19 licences issued to them, 13 licences were cancelled on 17.02.2012 and in respect of 6 licences SCNs have been issued by DGFT on 01.06.2012, 29.05.2012 & 16.07.2012.

2. The above resulted in Show Cause Notices to various importers and the Respondent before us in this Appeal is also one of the recipients of such SCN, dated 28.07.2015 issued by DRI proposing *inter alia* as to why the import duty forgone by utilization of said DFIA licences on their imports to the tune of Rs.66,42,730/- should not be demanded under Section 28 (4) of the Customs Act, 1962 along with applicable interest under Section 28AA/28AB *ibid*. Upon adjudication, the Adjudicating Authority *vide* impugned Order-in-Original No.44358/2016

dated 29.01.2016 has dropped the proceedings. The said Order-in-Original (*supra*) has been challenged by Revenue in this Appeal.

3. Shri Anoop Singh, learned Departmental Representative appearing for the Revenue contended that the Adjudicating Authority has seriously erred in dropping the demands since the exporter had obtained the license by fraudulent means.

4. Shri S. Murugappan, ld. Advocate appearing for the Respondent, contended at the outset that proceedings against the exporter namely M/s. Pan Parag India Ltd., Kanpur initiated by the Revenue has been held to be void by the Delhi Bench of the Tribunal in the case of **M/s.Pan Parag India Ltd. & Others** *vide* Final Order No.50436-50439/2025 dated 25.03.2025 wherein the Delhi Bench has held that the Revenue had failed to produce any evidence to justify that the goods exported by the said exporter was not of the same quality, technical characteristics and specification as those of the inputs used in the resultant product therein. It has also been

held in the above ruling that as the DGFT had taken action against the said exporter by imposing penalties, the SCN under Appeal in the above case issued by the Customs authorities on the same set of allegations/facts was not sustainable. It was thus claimed by the ld. Advocate that allegation against the exporter itself having been vacated, the Respondent who is a *bona fide* purchaser cannot be punished or found fault with. Learned Advocate also invited our attention to a Final Order of Chennai Bench in the case of **Indras Agencies Private Ltd. Vs CC Chennai** [Final Order No.41416/2025 dt. 02.12.2025 in Customs Appeal No.40778 of 2016] wherein the Bench has considered more less similar issue, involving almost similar set of facts, wherein also the importer was found to have utilized transferable DFIA licenses which was originally issued to the same exporter viz. M/s.Pan Parag India Limited and the Bench after considering the arguments at length and thereafter following an order of coordinate Bench in the case of **Commissioner of Customs, Amritsar Vs Gobi Chand Krishnan Kumar Bhatia** [2013 (295) ELT 739 (Tri.-Del.) has come to the conclusion that demand of duty made after invoking the extended period of limitation under Section 28 (4) was not sustainable.

5. We have carefully considered the facts of the case as presented both in writing as well as verbal and we have also carefully considered the decision/orders relied upon. Respondent has raised a question of time bar however, the issue involved is a mixed question of law and fact and cannot be examined at the threshold. Regarding merits of the Appeal, we agree with the contention of the learned Advocate that the Delhi Bench of the Tribunal has, in the case of the exporter viz. **M/s.Pan Parag India Ltd**. (*supra*) not only ordered dropping the demand confirmed against the exporter, but also has observed that even the DGFT has only levied penalties without cancelling the license. These findings coupled with the order of this Chennai Bench in the case of **Indras Agencies Private Ltd.** (*supra*) make it clear that even the allegations against the present Respondent` stands not proved rather, when the exporter's license itself stood intact, the Respondent cannot be held to be involved in any fraudulent ways and means to import the goods that were

exported using an irregular/fraudulent license. For these very reasons, we are of the view that even the extended period of limitation has been invoked without any justification. In view of the above discussion, we are hold that the charge against the present Respondent cannot sustain both on merits as well as on limitation.

6. Resultantly, we see no reason to interfere with the impugned order and the same is upheld. The Revenue's Appeal is dismissed.

(Order pronounced in open court on 05.08.2026)

sd/-	sd/-
(M. AJIT KUMAR)	**(P. DINESHA)**
Member (Technical)	Member (Judicial)

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