IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA

REGIONAL BENCH – COURT NO. 2

Customs Appeal No. 76464 of 2025

(Arising out of Order-in-Appeal No. Kol/Cus/CCP/DC/298/2025dated 07.08.2025 passed by the Commissioner of Customs (Appeals) 3rd Floor, Custom House, 15/1, Strand Road, Kolkata-700001)

The Commissioner of Customs(Prev.), Kolkata : Appellant
3rd Floor, Custom House,
15/1, Strand Road, Kolkata-700001

VERSUS

M/s. Prime Enterprise, : Respondent
Flat 18, First Floor,
380, Dumdum Park, Kolkata-700055

APPEARANCE:

Shri Aditya Dutta, Advocate
for the Appellant

Shri S. Debnath, & Shri A. Biswas, Authorized Representative
for the Respondent

CORAM:

HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.76387/2026

DATE OF HEARING / DECISION: 29.09.2026

Order: [PER SHRI R. MURALIDHAR]

The Officers of the Ghojadanga LCS identified eleven (11) live consignments of Refined Palm Olein of M/s Prime Enterprises at Ghojadanga LCS which are yet to be cleared. The import documents of the said eleven consignments were examined and found that the importer had imported the impugned goods claiming exemption Under Notification No.99/2011-Customs Dated 09.11.2011 by submitting following SAFTA Certificate purportedly issued by the

Bangladesh Authorities under SAFTA Rules of Origin. The details are as under:

BE No	Date	Description Of goods	Qty	Declared Ass Value	SAFTA COO Certificate No And Date	SAFTA Category
705188	22.09.2018	Refined Palm Olein	200 MTS	1,29,59,270	EPB/18/Other/8469 Dt 13.09.2018	B

2. It was alleged that on scrutiny of the SAFTA Certificate of Origin (SAFTA COO)EPB/18/OTHER/8469 Dated 13.09.2018 issued by the Bangladeshi authority, major discrepancy was noticed which indicated that the imported goods and the Corresponding Coos do not comply with the basics requirements given under Rules of Determination of Origin of Goods under the Agreement on South Asian Free Trade Area(SAFTA). Thus, the said Certificate of Origin appeared to be issued without following the specified provisions under SAFTA Rules of Origin, as stipulated under Notification No. 75/2006-Customs (N.T) Dated 30.06.2006, thereby making the impugned SAFTA COOs ineligible for purpose of exemption from Customs Duty. As such, it appeared that the importer had attempted to take ineligible exemption notification No. 99/2011-Cus Dated 09.11.2011 on the imported edible oils which do not comply the mandatory condition of the notification regarding origin of goods. Accordingly, the SCN was issued on 09.08.2023 for the consignment imported on 22.09.2018 by invoking the extended provisions under Section 28(4) of the Customs Act.

3. The appellant filed their reply, the relevant portion of which is reproduced below:

> *We are engaged in the business of import and export and placed an order of 200 MTS of Refined Palm Olien HSN Code 15119090 with Bangladesh exporter of Edible oil i.e. M/s Meghna Edible Oil Refinery Limited vide invoice No. CI-MEORL/TRAD/221/2017 Dated 11.09.2018 and the unit price was 870 (USD/MT) totalling to 1,74,000 (USD). We have claimed exemption of Customs duty as available under notification NO. 99/2011-Customs Dated 09.11.2011, by submitting SAFTA Certificate No. EPB/18/Other/8469 Dated 13.09.2018 issued by the Bangladesh Authorities under SAFTA Rules of Origin and the same was verified by the Customs Officer of Ghojadanga LCS. The said SAFTA Certificate is issued by the Md. Rafiqul Islam, Research Officer, Export Promotion Bureau, Dhaka, Bangladesh dated 13.09.2018 wherein the origin criterion is mentioned as "B" and the Column 13 of Certificates, it is endorsed that " It is hereby certified that on the basis of control carried out, that the Declaration by the Exporter is correct, "It is hereby certified that on the basis of control carried out, that the declaration by the Exporter is correct." It is crystal clear that we have claimed exemption of duty on the strength of SAFTA Certificate No. EPB/18/Other/8469 Dated 13.09.2018 issued by the Bangladesh Authorities under SAFTA Rules of Origin.*
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> *Moreover, it also submits that The University of Calcutta vide test report No. TC625218000000099P Dated 26.09.2018 also confirms that the sample confirms to safety standards of RBD Palm Olien.*
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> *Further, it is also submitted that in the similar matter, SCN issued against M/s Balaji Exim Enterprises Ltd. Regarding importation of Refined Palm Olien has been dropped by the Adjudicating Officer i.e. Additional Commissioner CC(P), W.B. Kolkata vide order No. 146/ADC/CUS(P)/WB/2023-24 Dated 12.03.2024.*

In view of above, we pray to kind honour to consider the points and drop the proceedings initiated under SCN No. VII (48)38/Cus/PE/GJD-LCS/2018 Dated 09.08.2023 by the Assistant Commissioner of Customs Ghojadanga LCS. In the similar case department has dropped vide order no. 146/ADC/CUS(P)/WB/2023-24 Dated 12.03.2024.

4. The Adjudicating authority vide OIO No.56/ADC/CCP/WB/2024-25 dated 12.12.2024, has dropped the proceedings holding as under:

I find that there are no documents relied upon in the Show cause Notice to establish the charges i.e. collusion; or any wilful mis-statement; or suppression of facts, by the importer or the exporter or the agent or employee of 'the importer or exporter, and subsequently demand of custom duty under Section 28(4) of the Customs Act, 1962. Since the demand of customs duty under Section 28(4) of the Customs Act, 1962 does not sustain the proposition of confiscation of goods under section 111(m) and 111(b) and penal actions under section 112(a) of the Customs Act, 1962 are not justified, legal and tenable.

5. Being aggrieved, the Revenue filed their appeal before the Commissioner (Appeals), who vide the impugned **OIA No.KOL/CUS/CCP/DC/298/2025 Dated 07.08.2025**, has held as under:

11. Ultimately, a thorough review of the SCN reveals that no documents or evidence were relied upon to substantiate these specific charges against M/s Prime Enterprise, the exporter, or any of their agents. The notice merely outlines the inconsistencies in the Certificate of Origin and the alleged artificial inflation of prices without providing the necessary proof to invoke the extended period of limitation under Section 28(4). While the SCN raises valid concerns about the validity of the SAFTA Certificate of Origin and the alleged manipulation of prices, the procedural foundation upon which the SCN was built is flawed. The adjudicating authority found that the SCN's

primary failing was its reliance on a general allegation of wrongdoing without providing concrete evidence or documentation to support the claims of collusion or willful misstatement. Therefore, because the SCN lacks the necessary factual basis and legal justification to sustain the charges under Section 28(4), the entire proceeding is rendered void from the outset.

12. Based on the findings of this order, the proceedings initiated by the Show Cause Notice issued under C. No. VIII (48)38/CUS/PE/GJD-LCS/2018 dated August 9, 2023, were correctly dropped by the lower authority in the impugned Order dated 12.12.2024.

13. In view of the forgoing facts and discussion, I reject the appeal filed by the appellant and find no infirmity in the Order dated 12.12.2024 passed by the lower authority.

6. Now being aggrieved by the above OIA, the Revenue is before us.

7. The Ld. AR reiterates the detailed Grounds taken in the Appeal. He submits that the lower authorities are in error in dropping the proceedings initiated against the appellant. Hence, it is prayed that the appeal may be allowed.

8. The Ld. Counsel appearing on behalf of the appellant relies on the detailed arguments taken up by the appellant before the lower authorities and the considered and detailed findings given by them to drop the proceedings.

9. Heard both the sides.

10. In this case the import has taken place in September 2018. As canvassed by the appellant, they have submitted all the documents including the

Certificate of Origin, which was accepted by the Customs officials. After nearly 5 years, the Revenue has initiated the recovery proceedings questioning the veracity / authenticity of the COO. Both the lower authorities have given their detailed findings as to how the Revenue has failed to provide any evidence towards any suppression on the part of the appellant to invoke the provisions of Section 28(4) of the Customs Act 1962. Even under the present appeal, in the Grounds of Appeal, no proper evidence has brought to rebut the findings of the lower authorities.

11. Therefore, we do not find any necessity to interfere with the detailed findings given by the lower authorities.

12. The appeal filed by the Revenue stands dismissed.

(Operative part of Order was pronounced in Open court)

(R. MURALIDHAR)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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