CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL BANGALORE

REGIONAL BENCH - COURT NO. 2

Customs Cross Application No. 20270 of 2022
in
Customs Appeal No. 20283 of 2022

(Arising out of Order-in-Original No. 1325/2021 dated 30.12.2021 passed by the Commissioner of Customs, Bengaluru.)

Principal Commissioner of Customs,
Air Port & ACC Commissionerate,
Bengaluru.

.......Appellant

VERSUS

M/s. E-Land Apparel Ltd.,
No. 16/2B, Sri Vinayaka Indl Estate,
Singasandra, Near Dakshin Honda Showroom,
Hosur Road,
Bengaluru - 560 008. ....**Respondent**

APPEARANCE:

Mr. Maneesh Akhoury, Assistant Commissioner (AR) for the Appellant
Mr. Madan. G. Advocate for the Respondent

CORAM:

HON'BLE MR. P.A. AUGUSTIAN, MEMBER (JUDICIAL)
HON'BLE MR. PULLELA NAGESWARA RAO, MEMBER (TECHNICAL)

<u>Final Order No. 20827 /2026</u>

Date of Hearing:08.01.2026
Date of Decision: 07.07.2026

PER: P.A. AUGUSTIAN

The issue in the present appeal is whether the amendment sought by the Respondent for changing the scheme code in shipping bill can be allowed or not.

2. When the appeal came up for hearing, Learned AR submits that Respondent filed an application for amendment under Section 149 of

the Customs Act, 1962 on 17.11.2021 vide impugned order dated 30.12.2021, allowed the amendment of shipping bills from scheme code 19 (Drawback) to 60 (ROSTCL) scheme by holding that 3-month time period prescribed under Para 3(a) of Circular No. 36/2010-Cus dated 23.09.2010 was inapplicable as the same was struck down by higher courts. The Department is in appeal against this order. Aggrieved by said order, Revenue filed the present appeal.

3. The Respondent herein is involved in manufacturing of export of knitted and woven apparel and claiming the benefit under the Merchandize Export from India Scheme. (MEIS) modified under Chapter 3 of Foreign Trade Policy by declaring its intent to claim the said benefit in the shipping bill. During the period from 05th March 2019 to 31.01.2020, the Respondent effected export under 211 shipping bills declaring the intent to claim benefit under MEIS out of which export under 67 number of shipping bills were effected from Bangalore port. Thereafter with effect from 07th March 2019, RoSCTL scheme was introduced for textile and made-up sector allowing incentives in the form of scripts. However, the Respondent herein has not declared its intent to claim benefit of said scheme and availed the benefit of MEIS scheme. But owing to the retrospective withdrawal of the Drawback MEIS scheme for the apparel sector via Public Notice No. 58/2015 N 2020 dated 29.01.2020, the Respondent was deprived of benefits they were substantively entitled to. However, Respondent is entitled to the alternative Drawback RoSCTL benefit amounting to Rs. 43,96,023.39/-, which is being denied solely due to a scheme code mismatch in shipping bills as originally MEIS scheme code was mentioned in shipping bills. To avail the benefit Respondent approached the DGFT vide email dated 20.11.2020, however they were informed that benefits could not be processed unless the Shipping Bills are converted.

4. Learned Authorised Representative (AR) for the Revenue submits that as per Section 149 of the Customs Act, 1962 amendment of a Shipping Bill is allowed subject to the condition that this discretion had to be exercised on the basis of the documentary evidence existing at

the time of export. Further CBIC has issued Circular No. 36/2010 dated 23.9.2010 regarding conversion of shipping bills.

5. Learned AR further submits that the exporter requested for conversion of 67 Shipping Bills vide letter dated 17.11.2021, pertaining for the period from 07.03.2019 to 31.01.2020. Such request was made after completion of 1 year 10 months to 2 years 7 months from the date of shipping bills and the request has not made within the stipulated period of 3(three) months from the date of export and therefore does not satisfy the condition specified at para 3(a) of the Board Circular 36/2010 dated 23.09.2010. For availing the benefits of RoSCTL scheme, the claim has to be made by the exporter in the EDI shipping bill by using specific codes for drawback exports, at the item level, which was clarified by the CBIC Circular No. 10/2019-Customs dated 12.03.2019. Para 3 of the Circular reads as under:

> *"3. It is to point out that under the RoSCTL, the benefit to exporters shall be given by DGFT in form of Merchandise Exports from India Scheme (MEIS) type duty credit scrips. Detailed procedure for claiming benefit under the RoSCTL, issuance of scrips and their usage is being worked out. Till finalisation of such details,* ***in the transition period, it has been decided that claims filed under the existing scheme codes for the erstwhile RoSL scheme will be treated as claims filed under RoSCTL scheme."***

The systems advisory dated 16.09.2016 for the scheme code for RoSL, had stated that the scheme code for opting for drawback and ROSL was 60. Hence, the exporter should have opted for Scheme code 60, had they intended to avail the ROSL/ ROSCTL benefits at the time of filing the Shipping Bills. Learned AR also relied on the decision in the matter of **Government of India Vs. Citedal Fine Pharmaceuticals-[1989 (42) ELT 515 (SC)].**

6. Learned Counsel appearing for the Respondent submits that the Merchandise Exports from India Scheme (MEIS Scheme) was an export

incentive scheme introduced under the Foreign Trade Policy 2015-20, which came into effect from 01.04.2015 and was valid until December 2020. MEIS Scheme was introduced with an objective to promote the export of goods from India by providing incentives in the range of 2-7% of the FOB value of exports for notified/specific products. By providing these incentives, MEIS Scheme aimed to make Indian goods competitive in the global markets by offsetting infrastructural inefficiencies and associated costs involved in exports from India. The emphasis was mainly on the products which have higher export intensity and an excellent capability to generate employment in the country and enhance the competitiveness of Indian goods in the global market. The MEIS Scheme provided incentive in the form of a Duty credit scrip or MEIS License which could be used in payment of import duties or could be sold in the open market for a premium rate.

7. As regards clarification issued by CBIC Circular No. 10/2019-Customs dated 12.03.2019., Learned Counsel submitted that various Hon'ble High Courts have struck down the 3-month condition as unconstitutional/ illegal. In this regard Learned Counsel relied on the following decisions;

i. **Sony India Pvt. Ltd. Vs. Union of India [2022 (379) E.L.T. 588 (Telangana))**
ii. **Colossustex Pvt. Ltd. Vs Union of India (2023) 11 Centax 57 (Bom.)]**
iii. **Parayil Food Products Pvt. Ltd. Vs. Union of India [(2021) 375 E.L.T. 486 (Ker.)]**
iv. **Lovy International Vs. Commissioner of Customs [(2024) 16 Centax 223 (Tri.-Del)]**
v. **Saurabh Overseas Traders Vs. Commissioner of Customs [(2024) 16 Centax 434 (Tri.-Bang)]**
vi. **Arvind Smart Textiles Ltd Vs. CC [(2024) 15 Centax 73 (Tri-Mad.)]**

8. Learned Counsel further submits that the very act of the Central Board of Indirect Taxes and Customs (CBIC) in notifying the **Export**

Entry (Post export conversion in relation to instrument based scheme) Regulations, 2025 vide Notification No. 21/2025-Customs (N.T.) dated 03.04.2025 serves as a tacit admission of the Department's legal failure in the past. It is also submitted that the Courts **in Mahalaxmi Rubtech Ltd Vs. Union of India 2021 (3) TMI 240 (Guj.)** held that time limits can only be prescribed via "Regulations" framed under Section 157, and not by "Circulars." By now choosing to frame Regulations in 2025 to prescribe time limits, the Department has effectively admitted that the method used in 2010 (vide Circular No. 36/2010 dated 23.09.2010) was legally incompetent. Therefore, while issuing the impugned order in 2021, there was no valid law restricting the time limit and rightly allowed the amendment.

9. Heard both sides and perused the records.

10. We find that the issue is no more *res integra* and settled as per the ratio of the decisions relied by the Respondent. Facts being so and considering the introduction of Regulation Export Entry (Post Export Conversion in relation to Instrument Based Scheme) Regulations, 2025 issued vide Notification No. 21/2025 dated 03.04.2025, the Adjudication Authority rightly allowed amendment as sought. Consequently, the cross application filed by the respondent is disposed.

11. Accordingly, the appeal is dismissed.

(Order pronounced in Open Court on 07.07.2026)

(P. A. AUGUSTIAN)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

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