(2013) 03 P&H CK 0149

In the Punjab And Haryana At Chandigarh

Case No : Customs Appeal No''s. 9 and 10 of 2012 (O and M)

Commissioner of Central Excise — APPELLANT

Vs

Vanick Oils and Fats (P) Ltd. — RESPONDENT

Date of Decision : 21-03-2013

Acts Referred:
Customs Act, 1962 — Section 112A

Citation : (2013) 298 ELT 40

Hon'ble Judges : Ritu Bahri, J;Hemant Gupta, J

Bench : Division Bench

Advocate : Sukhdev Sharma, for the Appellant; Jagmohan Bansal, for the Respondent

Judgement

1. This order shall dispose of Customs Appeal Nos. 9 and 10 of 2012 arising out of the order passed on 29-3-2012 2013 (296) ELT 421] and 27-3-2012 [2013 (298) E.L.T. 113 (Tri.-Del.)] respectively passed by Customs Excise and Service Tax Appellate Tribunal, New Delhi (for short the ''Tribunal''). For brevity, the facts are being taken from Customs Appeal No. 9 of 2012. Vide the impugned order, the Tribunal has reduced the redemption fine and also set aside the penalty imposed u/s 112A of the Customs Act, 1962.

2. Learned counsel for the appellant contends that the Tribunal has erred in law in reducing the amount of redemption fine and to set aside the penalty in view of the order passed in respect of the previous import by the respondents. On the other hand, Mr. Bansal, learned counsel for respondents points out that only three consignments out of large number of consignments did not conform to the standard laid down under the Prevention of Food Adulteration Act, 1954 and such stray consignments do not deserve the stringent action, as proposed by the Revenue. He further states that the order of the Tribunal be set aside with the direction to the Tribunal, inter alia, to examine the pattern of import which is sub-standard as a routine and that it was stray consignment which warrant reduction in the redemption fine and also waiver of penalty.

3. In view of the said concession, we set aside the orders passed by the Tribunal on 29-3-2012 and 27-3-2012 respectively and remit the matters back to the Tribunal to decide the appeals afresh to examine the question as to whether, the consignments in question were the stray imports warranting concession in the fine and penalty or not. Disposed of accordingly.