IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.A.No.401 of 2021

1. Union of India
   Rep. by is Secretary
   Department of Commerce
   Ministry of Commerce and Industry
   Udyog Bhavan, New Delhi 110 107.

2. The Director General of Foreign Trade
   H-Wing, Gate No.2
   Udyog Bhavan, New Delhi 110 107.

3. The Zonal Joint Director General of Foreign Trade
   Shastri Bhavan, CPWD Annexe Building
   4th Floor, No.26, Haddows Road
   Nungambakkam, Chennai 600 006. .. Appellants

Vs.

1. M/s.Raja Crown and Cans Pvt. Limited
   Plot No.70B, 71, Phase II
   Sipcot Industrial Estate, Hosur 635 109.

2. The Commissioner of Central Excise
   Chennai III Commissionerate
   26/1, Mahatma Gandhi Road
   Nungambakkam, Chennai 600 034. .. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 24.10.2018 made in W.P.No.24328 of 2015.

For the Appellants	:	Mr.AR.L.Sundaresan Additional Solicitor General Assisted by Mr.J.Madanagopal Rao
For the Respondents	:	Mr.Karthikeyan for Respondent-1 No appearance for Respondent-2

JUDGMENT
(Delivered by the Hon'ble Chief Justice)

We have heard Mr.AR.L.Sundaresan, learned Additional Solicitor General, assisted by Mr.J.Madanagopal Rao, learned counsel for the appellants and Mr.Karthikeyan, learned counsel for the first respondent.

2. The appellants assail the order of the learned Single Judge directing the refund of Terminal Excise Duty.

3. The issue in the present matter is no longer res integra in

view of the authoritative pronouncement of the Apex Court in the case of ***Sandoz Private Limited v. Union of India [2022 (1) TMI 225 – SC]***.

4. The Apex Court, in ***Sandoz Private Limited*** supra, has considered Chapter 8 of FTP and also the policy circular dated 15.03.2013 and held that EOU entities who had procured and imported specified goods from DTA supplier are entitled to do so without payment of duty having been ab initio exempted from such liability under para No.6.11(c)(ii) of the FTP, being deemed exports.

5. In the light of the above, no error has been committed by the learned Single Judge. The writ appeal, as such, is dismissed. There will be no order as to costs. Consequently, C.M.P.No.1617 of 2021 is also dismissed.

(S.V.G., CJ.) (P.D.A., J.)
21.09.2023

Index : Yes/No
Neutral Citation : Yes/No
kpl

To

The Commissioner of Central Excise
Chennai III Commissionerate
26/1, Mahatma Gandhi Road
Nungambakkam
Chennai 600 034.

THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESAVALU, J.

(kpl)

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