

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL, CHENNAI**

Customs Appeal No.40878 of 2015

(Arising out of Order-in-Appeal C. Cus. II No. 164/2015 dated 18.2.20215 passed by the Commissioner of Customs (Appeals – II), Chennai)

M/s. Jain Biologicals Pvt. Ltd.

No. 5, c.O. 77 – 78, 2nd Floor
Swastik Vihar
Mansa Devi Complex, Panchkula
Haryana – 134 109.

Appellant

Vs.

Commissioner of Customs

Chennai IV Commissionerate
No. 60, Rajaji Salai
Chennai – 600 001.

Respondent

APPEARANCE:

Shri S. Elayaperumal, Advocate for the Appellant
Shri Vikas Jhagharia, AC (AR) for the Respondent

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Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)

Final Order No. **40279 / 2022**

Date of Hearing : 13.07.2022
Date of Decision: 13.07.2022

The above appeal is filed by the appellant aggrieved by the rejection of the refund claim by the authorities below.

2. On behalf of the appellant, Id. Counsel Shri S. Elayaperumal appeared and argued the matter. He submitted that the appellant had filed application for refund of special additional duty in terms of Notification No. 102/2007-Cus dated 14.9.2007 as amended by Notification No. 93/2008 dated 1.8.2008. The appellant could not file the required documents in the nature of Chartered Accountant's certificate and correlation certificate. For non-

compliance of furnishing of these documents, the adjudicating authority rejected the refund claim. The said decision was upheld by the Commissioner (Appeals). It is submitted by the learned counsel that the appellant is ready to furnish the documents and that they may be given one more opportunity to appear before the adjudicating authority for considering the refund claim.

3. The learned AR Shri Vikas Jhajharia appeared for the respondent. He supported the findings in the impugned order.

4. Heard both sides.

5. On perusal of the orders passed by the authorities below, it is seen that the refund claim has been rejected for non-submission of the required documents. The counsel for the appellant has submitted that they are ready to furnish the documents. In the interest of justice, I am of the view that the appellant has to be given a further chance to submit the documents. The impugned order is set aside. The matter is remanded to the adjudicating authority who shall give an opportunity of personal hearing to the appellant as well as for submission of documents and consider the refund claim afresh. The appeal is allowed by way of remand.

(Dictated and pronounced in open court)

(SULEKHA BEEVI C.S.)
Member (Judicial)