

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal No(s). 877/2010

**M/S BANGALORE MONO FILAMENTS P.LTD. THROUGH ITS DIRECTOR
Appellant(s)**

VERSUS

COMM.R.OF CUS. (EXPORTS) CHENNAI & ANR. Respondent(s)

O R D E R

1. Learned counsel for the appellant states that the present appeal raises the following substantial questions of law:

a) Whether the High Court was justified in holding that the appellant is not entitled to the benefits of Customs Notification No. 31/1997 on the ground that the Duty Exemption Entitlement Certificate licence expired when the clearance of the goods took place from the Customs House? and

b) Whether for obtaining the benefits of the exemption notification, the advance licence in question has to be valid at the time when the goods are taken delivery from the bonded warehouse?

2. The facts of the present case are in a rather narrow compass.

A. The appellant had imported 10,800/- kgs of HDPE granules on 11.01.2000 under Open General Licence and the goods had been kept in a warehouse under a bond.

B. On 09.02.2000, the appellant filed an inbound bill of entry.

C. On 26.05.2000, the appellant obtained by transfer an Advance Licence under the Duty Exemption Entitlement Certificate ("DEEC") Scheme dated 19.11.1998 issued in the name of Indco Remedies Ltd., Bombay. It had validity of two years and was to expire on 18.11.2000.

3. Admittedly, the appellant filed the Ex-Bond Bill of Entry for taking delivery from the warehouse on 08.12.2000. The relevant provisions of the Customs Act, 1962 that are applicable to the present case are Sections 15 and 68. The said Sections are reproduced herein below:

"15. Date for determination of rate of duty and

tariff valuation of imported goods.-(1) The rate of duty and tariff valuation, if any, applicable to any imported goods, shall be the rate and valuation in force,-

(a) in the case of goods entered for home consumption under section 46, on the date on which a bill of entry in respect of such goods is presented under that section;

(b) in the case of goods cleared from a warehouse under section 68, on the date on which a bill of entry for home consumption in respect of such goods is presented under that section;

(c) in the case of any other goods, on the date of payment of duty:

Provided that if a bill of entry has been presented before the date of entry inwards of the vessel or the arrival of the aircraft or the vehicle by which the goods are imported, the bill of entry shall be deemed to have been presented on the date of such entry inwards or the arrival, as the case may be.

(2) The provisions of this section shall not apply to baggage and goods imported by post.

xxxx

xxxx

xxxx

xxxx

68. Clearance of warehoused goods for home consumption.— Any warehoused goods may be cleared from the warehouse for home consumption, if—

(a) a bill of entry for home consumption in respect of such goods has been presented in the prescribed form;

(b) the import duty, interest, fine and penalties payable in respect of such goods have been paid; and

(c) an order for clearance of such goods for home consumption has been made by the proper officer.

Provided that the order referred to in clause (c) may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria:

Provided further that the owner of any warehoused goods may, at any time before an order for clearance of goods for home consumption has been made in respect of such goods, relinquish his title to the goods upon payment of penalties that may be payable in

respect of the goods and upon such relinquishment, he shall not be liable to pay duty thereon:

Provided also that the owner of any such warehoused goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force."

4. The General Exemption No. 84-I that deals with exemption to materials imported against Advance Licence issued after 01.04.1997 is reproduced herein below:

"Exemption to materials imported against Advance Licence issued after 1.4.1997. - In exercise of the powers conferred by sub-section (1) of Section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts material imported into India, against the Advance Licence issued on or after 1st April 1997 (hereinafter referred to as to the said licence), from the whole of the duty of Customs leviable thereon which is specified in First Schedule to the Customs Tariff Act, 1975 (51 of 1975) subject to the following conditions, namely,.....

(iii) that the said licence and the said certificate are produced before proper officer of the Customs at the time of clearance of imported materials for debit;"

5. From the aforesaid provisions, it is evident that the liability of the assessee to pay customs duty arises upon clearance of the goods from the

warehouse. The expression “*clearance from the warehouse*” denotes the date on which the goods are actually removed therefrom [See: *Pratibha Processors and Ors. vs. Union of India and Ors.*, (1996) 11 SCC 101].

6. In the present case, it is an admitted position that the goods were removed from the warehouse on 8 December 2000. On that date, the Advance Licence under the DEEC Scheme had already expired.

7. Consequently, this Court is of the considered view that the High Court was justified in holding, in consonance with the judgment of this Court in *Pratibha Processors* (*supra*), that on the date when the duty was assessed, the appellant's entitlement to exemption under the DEEC licence had ceased.

8. In view of the foregoing, the present appeal, being devoid of merit, stands dismissed. Pending application(s), if any, shall also stand disposed of.

..... J
[MANMOHAN]

..... J
[VIPUL M. PANCHOLI]

New Delhi;
February 05, 2026

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 877/2010

M/S BANGALORE MONO FILMENTS P.LTD. THROUGH ITS DIRECTOR
Appellant(s)

VERSUS

COMM.R.OF CUS. (EXPORTS) CHENNAI & ANR. Respondent(s)

Date : 05-02-2026 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE VIPUL M. PANCHOLI

For Appellant(s) :

Mr. K. V. Mohan, AOR
Mr. K.v. Balakrishnan, Adv.
Mr. R.k. Raghavan, Adv.
Mr. Devesh Kr. Khanduri, Adv.

For Respondent(s) :

Mr. Raghvendra P Shankar, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Ms. Pallavi Mishra, Adv.
Mr. Udayaditya Banerjee, Adv.
Mr. Alankar Gupta, Adv.
Mr. Karan Lahiri, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. The appeal stands dismissed in terms of the signed order which is placed on the file.
2. Pending application(s), if any, shall also stand disposed of.

(CHETAN ARORA)
ASTT. REGISTRAR-cum-PS

(SAPNA BANSAL)
COURT MASTER (NSH)