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

REGIONAL BENCH - COURT No. III

**Customs Appeal No.42088 of 2014**

(Arising out of Order-in-Appeal C.Cus.No.1006/2014 dated 24.06.2014 passed by Commissioner of Customs (Appeals), 60, Rajaji Salai, Custom House, Chennai 600 001.)

**M/s.Volvo India Private Ltd.** **.... Appellant**
Yalachayally Village, Tavarekere post,
Hosokote Taluk,
Bangalore 562 122.

*VERSUS*

**The Commissioner of Customs** **... Respondent**I,
No.60, Rajaji Salai, Custom House,
Chennai 600 001.

**APPEARANCE :**

Shri Rohan Muralidharan, Advocate for the Appellant
Shri Anoop Singh, Authorized Representative for the Respondent

**CORAM :**

**HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)**
**HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)**

**FINAL ORDER No.40121/2025**

**DATE OF HEARING : 22.10.2024**
**DATE OF DECISION : 24.01.2025**

**Per: Shri P. Dinesha**

1. The Appellant is an importer, who purchased a Duty-free Import Authorization (DFIA) License No. 3010063500/2/26/00 dated 12.10.2009 which was originally

issued to M/s.International Tractors Ltd. That entity secured the license to import parts of tractors covered under Standard Input Output Norms (SION) category C969 dealing with 'Agricultural Tractors' in various conditions. This license came to be sold after becoming transferrable first to M/s.Vivid Visions Trexim P. Ltd., who thereafter sold the same to the Appellant.

2. The Appellant exports buses and vehicles falling under SION category C1059 in relation to which it made imports/ purchases of internal combustion engines under two Bills of Entry dated November 26, 2011 and November 24, 2011, which were classifiable under CTI 8408 2020, for use in the manufacture of various construction equipment. The Appellant made these imports against the above DFIA license and claimed the benefit of exemption from the payment of Basic Customs Duty under Notification No. 98/2009 dated 11.09.2009.

3. The benefit of this exemption was denied by the Adjudicating Authority on the ground that the items allowed to be imported under this DFIA license should be parts of tractors covered under SION category C969 whereas the appellant manufactured medium and heavy commercial vehicles covered under SION category C1059 for which it imported internal combustion engines. The finding of the Adjudicating authority in the OIO No. 17918/2011 dated 20.12.2011 was thus that the internal combustion engine which could be imported under the license were to be those used for agricultural tractors, and not those used for medium

and heavy commercial vehicles. This action was upheld in first appeal, vide OIA C.Cus.No.1006/2014 dated 24.06.2014.

4. The short question that therefore arises before us is, "whether the Appellant could have imported internal combustion engines meant for use in medium and heavy commercial vehicles covered under SION category C1059 by utilizing this transferrable DFIA license?

5. We have heard Shri Rohan Muralidharan, Ld. Advocate for the Appellant and Shri Anoop Singh, Ld. Joint Commissioner for the Respondent.

6. The exemption from Customs duty in respect of imports against DFIA licences are governed by Notification No. 98/2009-Cus dated 11.09.2009. To the extent relevant, this notification stipulates that the exemption shall be granted provided that the description, value and quantity of materials imported are covered by the authorization, and the authorization is produced before the proper officer at the time of clearance. Certain additional restrictions are in place in respect of products specified in paragraph 4.32.3 of the Handbook of Procedures (Vol. I) of the Foreign Trade Policy (FTP).

7. We find from the authorization, a copy of which is placed in the Memorandum of Appeal, at page 33 of the Memorandum of Appeal, that at Sl. No. 6 in the table titled "import item (s) details," import of "internal combustion engine complete" to the extent of 181 units is permitted. We

further find that in the description of the product that may be imported in the authorization, the phrase *'internal combustion engine complete'* is not qualified in any manner that would suggest that such engines must necessarily be used for tractors and not for other forms of equipment or automobiles. We further find that the SION category does not find any mention in the authorization at all. It is true that the export item name which is set out in a separate table titled "item(s) details" is identical to the description of the SION Category C969. However, the category code itself finds no mention in the authorization. Further, if anything, the category restriction is relevant only to the goods exported. There appears to be nothing on the authorization restricting the category of goods imported. It might be true, as the Revenue contends, that in the application for the authorization, the importer sets out the categories of goods to be exported and imported. However, the language or particulars of the application cannot be read into the authorization so as to restrict the scope of the authorization to a field narrower than that which the words of the authorization themselves contemplate.

8. Further, Circular No. 46/2007 dated 20.12.2007 of the CBEC indicates that it is only in respect of product specified in paragraph 4.55.3 of the Handbook that a correlation of technical characteristics, quality and specification of the inputs with the export products is required to be established. The circular goes so far, as to say that such correlation is not required to be established in other cases unless the SION prescribe the same. We find that the goods imported and

exported (which are presently under consideration) by the Appellant do not fall in any of the categories listed in paragraph 4.55.3 of the handbook. To the same effect is Circular No. 50 (RE-08)/2004-2009 dated 06.01.2009. This view has been upheld by the Hon'ble Madhya Pradesh High Court in **Global Exim Vs Union of India –** 2019 (365) ELT 359 (M.P.) at para 39 and by a co-ordinate bench of this Tribunal in **CC (Export) New Delhi Vs SICPA India Ltd.** 2012 (279) ELT 113 (Tri.-Del.) at para 6.6.

9. We therefore find that the Appellant cannot be expected to correlate its imports with the exports of the person to whom the license was originally issued. We further find that there is nothing in the license which restricts the import of internal combustion engines only to such internal combustion engines as would have been used in the goods which are permitted to be exported by the authorization. No such restriction can be read in where the words of the authorization do not themselves create such a restriction. The impugned order therefore deserves to be set aside, which we hereby do. Resultantly, the Appeal stands allowed.

(Order pronounced in the open court on 24.01.2025)

sd/-

**(VASA SESHAGIRI RAO)**
Member (Technical)

sd/-

**(P. DINESHA)**
Member (Judicial)

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