DIVISION BENCH ITEM NO.108

NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH
PRAYAGRAJ

IA No.327/2020, IA No.69/2021, IA No.71/2021, MA No.13/2022, MA No.17/2022, IA No.113/2023, IA No.381/2024, IA No.627/2024 & IA No.416/2025 IN CP (IB) No.223/ALD/2018

CORAM:

1. **SH. PRAVEEN GUPTA,**
   HON'BLE MEMBER (JUDICIAL)
2. **SH. ASHISH VERMA,**
   HON'BLE MEMBER (TECHNICAL)

Date of Order: 12th August, 2025

Attendance-Cum-Order Sheet of the Hearing.

NAME OF THE COMPANY	**STANDARD CHARTERED BANK V/S M/S JVL AGRO INDUSTRIES LTD**
UNDER SECTION	**7 IBC (IN LIQUIDATION)**

COUNSEL APPEARED THROUGH PHYSICAL/ VIRTUAL HEARING:

Sh. Yash Tandon, Adv. : *For the Applicant/Liquidator in IA No.69/2021 & Res. in IA No.327/2020 IA No.71/2021, MA No.13/2022, MA No.17/2022, IA No.113/2023, IA No.381/2024, IA No.627/2024 & IA No.416/2025*

Ms. Anuradha Upadhyay, Adv. : *For the Applicant/JVVNL in IA No.381/2024 & IA No.416/2025*

Ms. Yoowanka Rymbai, Adv. for Ms. Madhumita Bhattacharjee, Adv. : *For the Applicant in IA No.327/2020*

Sh. Sahil Yadav, Adv. : *For the Applicant in IA No.113/2023*

ORDER

IA No.69/2021

1. This application has been filed inter alia with the following prayer:

Reliefs Sought:

In the light of the facts and circumstances stated above, the Applicant prays that this Hon'ble Tribunal be pleased to:

a) Grant Leave to the Applicant in terms of Section 33(5) of the Code to institute the instant proceeding against the Respondents;

-Sd- ***-Sd-***

b) *Pass necessary direction upon Respondents to comply with the order dated 23rd March, 2018 passed by the Hon'ble CESTAT, Eastern Region in Appeal No.C/55/2008-DB and refund the security deposit amount of Rs.6,23,86,515/- to the Corporate Debtor along with the interest accrued thereon;*

c) *Pass such order or order(s) as this Hon'ble Tribunal may deem fit in the facts and circumstances of the present case.*

2. The Ld. Counsel representing the Applicant/Liquidator argues that as per the order dated 23rd March, 2018 passed by the Ld. CESTAT, Eastern Region in Appeal C/55/2008-DB, refund of security deposit has been ordered. The operative part of the said order is at Page No.252, which reads as under:

ORDER DATED 23.03.2018

4. *Having heard the rival submissions and perused the records, we find that in transformation from crude to refined palm oil 'beta carotene' is eliminated. This is the pigment which gives a distinctive orange colour to crude palm oil and that, when refined and bleached, is presented as white in colour. It would further appear that 'beta carotene' is a natural ingredient in palm oil, but which is redundant in its deployment as vegetable fat and, though eliminated during refining process, is a marker of the imported goods being crude. It is also apparent from the scheme of taxation that value addition by refining in India is incentivized by concessional rate restricted only to crude palm oil. It is clear from the decision in re Ruchi Soya Industries Ltd. that, notwithstanding the contention of Learned Special Counsel, 'beta carotene' does not remain for long in crude palm oil. Further, it is not in dispute that the imported goods were not subject to refining or that they were used as such. Hence the imported goods are crude palm oil.*

5. *For the above reasons, we find ourselves unable to concur with the finding of the lower authority that the goods in question are not crude palm oil. Considering that the appellant had laid claim to eligibility for the concessional rate of duty, it was not the responsibility of the assessee to draw samples and to send* *it promptly for testing to ascertain the correctness of the declaration of intimation. That was the responsibility of the assessing officer. Having failed to do so, it cannot transfer the liability of ascertainment to the appellant and, on the basis of result of an invalid test, to fasten the duty liability on the importer.*

6. *In this circumstances the reliance placed on the test report which emanated long after the date of import does not sustain in the absence of any other evidence that imported goods were refined palm oil.*

7. *In view of the above the impugned order is set aside and the appeal is allowed.*

3. The Ld. Counsel representing the Liquidator further submits that an appeal has been filed by the Customs department against the aforesaid order and which according to his instructions, has since then been dismissed by the Hon'ble Calcutta High Court vide its order dated 08th December, 2021 on the ground of delay and latches. Meanwhile, the Liquidator has also moved an application on 9th December, 2020 before the Assistant Commissioner of Custom Office, Kolkata which is placed at Page No.265 of the paper book for seeking refund of the security deposit amount as envisaged under the order dated 23rd March, 2018.

4. We see that the refund of the said deposit amount as per the provisions of the Customs Act is still pending and in this regard, the Ld. Counsel for the Applicant refers to provisions of Section 27(1-B)(b) of the Customs Act, 1962, where the duty becomes refundable as a consequence of any judgment, decree, order or direction of the appellate authority, Appellate Tribunal or any court, the limitation of one year shall be computed from the date of such

-Sd- *-Sd-*

judgment, decree, order or direction.

5. He also seeks that as per the provision of Section 33(5) of the IBC, he may be granted permission to proceed with respect to seeking the refund of the aforesaid amount in accordance with law.

6. We have perused the document and heard the Ld. Counsel representing the Liquidator.

7. We see that this order passed by the Division Bench of the Ld. CESTAT, Eastern Region on 23rd March, 2018 in the aforesaid Appeal No.C/55/2008 as per the provisions of the Indian Customs Act, 1962 is passed under a different and independent piece of legislation. This Adjudicating Authority does not have any mandate or jurisdiction to deal with any of the aspects concerning any of the orders passed in accordance with the provisions of the Customs Act by the Ld. CESTAT, Eastern Region. The Liquidator however, is at liberty to proceed in accordance with law for seeking refund in compliance of the aforesaid order dated 23.03.2018 passed by the Ld. CESTAT, Eastern Region and affirmed by the Hon'ble High Court. This may be treated as approval granted by us in terms of proviso to Section 33(5) of the IBC.

8. Accordingly, IA No.69/2021 stands disposed off in the aforesaid terms.

<u>IA No.416/2025</u>

1. This application has been filed for seeking condonation of delay in filing IA No.381/2024.

2. Let the notice be issued to the non-Applicant Respondent/Liquidator.

-Sd- ***-Sd-***

3. Ld. Counsel, Sh. Yash Tandon representing the non-Applicant Respondent/Liquidator, who accepts notice, and therefore he seeks one week time to file the objections.

4. Let the same be done within the aforesaid stipulated time with an advance copy to be supplied to the Ld. Counsel representing the Applicant.

5. The matter is adjourned for further hearing on 16th September, 2025.

IA No.113/2023

1. Ld. Counsel representing the Applicant seeks time to file the rejoinder. The Ld. Counsel representing the non-Applicant Respondent/Liquidator states that as per the order dated 28th July, 2025 vide Para No.2, ten days' time was granted for filing the response positively and it was also observed that no further time for filing the rejoinder would be permitted.

2. In view of the aforesaid order, we are not granting any permission for filing of the rejoinder.

3. Let this matter be adjourned for further hearing on 17th September, 2025.

IA No.327/2020, IA No.71/2021 & IA No.381/2024

1. Let these IAs be adjourned for further hearing on 16th September, 2025.

MA No.13/2022, MA No.17/2022 & IA No.627/2024

1. Let these applications be adjourned for further hearing on 17th September, 2025.

-Sd-	***-Sd-***
(Ashish Verma)	**(Praveen Gupta)**
Member (Technical)	**Member (Judicial)**

12th August, 2025

Avaneesh Kumar Singh
(Stenographer)