

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT AHMEDABAD**

REGIONAL BENCH – COURT NO. 03

Customs Appeal No. 406 of 2011

[Arising out of OIA-213/2011/CUS/COMMR-A-/KDL passed by Commissioner of CUSTOMS-KANDLA]

M/s Mesrs Bgh Exim Limited

Dbz-S-140, Ward 12a,
Opp. Bank Of Baroda, Gandhidham,
KUTCH, GUJARAT.

.....Appellant

VERSUS

C.C.,-Kandla

Custom House, Near Balaji Temple,
Kandala, Gujarat

.....Respondent

APPEARANCE:

Sh. Amal Dave, Advocate for the Appellant

Sh. S.K. Shukla, Authorized Representative for the Respondent

**CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR
HON'BLE MEMBER (TECHNICAL), MR. RAJU**

FINAL ORDER NO. A/ 11017 /2019

DATE OF HEARING: 19.06.2019

DATE OF DECISION: 19.06.2019

PER: RAMESH NAIR

By the impugned order the adjustment of the refund against the confirmed demand was upheld by the Commissioner (Appeal).

2. Sh. Amal Dave, Counsel appearing on behalf of the appellant submits that the refund was adjusted against the demand confirmed in the order No. 118/2011/CUS/Commr(A)/KDL, this demand matter has travelled up to this Tribunal and this Tribunal today by above order dated 19.06.2019 has set aside the demand by allowing the appeal No. C/166/2011. Accordingly now since the demand does not exist. The amount of refund is payable to the appellant.

3. Sh. S.K. Shukla, Superintendent (AR) appearing on behalf for the Revenue reiterates the finding of the impugned order.

4. On careful consideration of the submission made by both the sides and perusal of the records, we find that since the demand of 26,82,000 /- has been set aside by this tribunal. The amount of refund adjusted by the sanctioning authority is now stand payable to the appellant.

5. Accordingly we set aside the impugned order and direct the adjudicating authority to process the claim and sanction in accordance with law. The appeal is allowed in above terms.

(Dictated & pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)