Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO.3

Customs Appeal No. 76 of 2012- SM

(Arising out of OIA-36-40/COMMR-A-/JMN/2012 dated 19/03/2012 passed by Commissioner of CUSTOMS-JAMNAGAR (PREV))

Salasar Balaji Ship Breakers Pvt Ltd ....**Appellant**
Cm-115, Near Natraj Shopping,
Kalvi Road,
Bhavnagar, Gujarat

VERSUS

C.C.-Jamnagar(prev) ......**Respondent**
Sharda House...Bedi Bandar Road,
Opp. Panchavati,
Jamnagar, Gujarat

APPEARANCE:
None appeared for the Appellant
Smt. Bina D Jani, Superintendent (AR) for the Respondent

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

Final Order No. A/ 10755 /2023

DATE OF HEARING: 07.03.2023
DATE OF DECISION:07.03.2023

RAMESH NAIR

The present case involves the refund of SAD in terms of Notification No.102/2007-Cus. Though the Adjudicating Authority has sanctioned the refund but the Commissioner (Appeals) has rejected the refund on the ground that there is no co-relation between the bills of entry and the sale documents.

2. None appeared on behalf of the Appellant despite several opportunities of hearing were given on 27.10.2022, 17.11.2022, 15.12.2022, 03.01.2023, 02.02.2023, 21.02.2023 dates. Therefore, the appeal is taken up for disposal.

3. Heard Smt. Bina D Jani, Learned Superintendent (AR) appearing for the Revenue who reiterates the finding of the impugned order.

4. I have carefully considered the submission made by Learned AR and perused the records. I find that this common order passed against five parties and in one of the case of Alfan Auto & Gen Engg Co. P Ltd in the

appeal against the same order, the matter was remanded to the Adjudicating Authority vide order No. A/11459/2017 dated 14.05.2017 wherein the Tribunal passed the following order:

> *" None present for the appellant. Heard the Ld. Authorised Representative for the Revenue.*
>
> *2. This is an appeal filed against OIA No. 36-40/Commr(A)/JMN/2012 dated 16.03.2012 passed by the Commissioner (Appeals) of Customs, Jamnagar.*
>
> *3. I find that the issue relates to refund of 4% SAD filed in accordance with Notification No. 102/2007-Cus dated 14.09.2007. Similar issue involved in Appeals filed earlier by other assesses, this Tribunal vide order No. A/10270-10273/WZB/AHD/2013 dated 20.02.2013 had remanded the matter to the adjudicating authority for verification of the facts as observed thereunder. In the result, the present Appeal is also allowed by way of remand to the adjudicating authority for verification of the co-relation as required observed by this Tribunal in its earlier order dated 20.02.2013 by this Tribunal. Appeal is allowed by way of remand to the adjudicating authority."*

4.1 Since the matter relates to the factual matrix of co-relation between the bills of entry and sale invoices. In view of the above Tribunal order, matter needs to be re-considered.

5. Accordingly, the impugned order is set aside. Appeal is allowed by way of remand to the Adjudicating Authority for passing a fresh order.

(Dictated & Pronounced in the open court)

RAMESH NAIR
MEMBER (JUDICIAL)

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