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

REGIONAL BENCH- COURT NO. 1

CUSTOMS Appeal No. 10400 of 2015-DB
(Arising out of OIA-AHM-CUSTM-000-APP-356-14-15 dated 09.12.2014 passed by Commissioner of Customs-AHMEDABAD)

FLOMETALLIC INDIA PVT LTD ....**Appellant**
PLOT NO 824 JHAGADIA INDUSTRIAL ESTATE GIDC, JHAGADIA
BHARUCH-GUJARAT

VERSUS

COMMISSIONER OF CUSTOMS, AHMEDABAD ....**Respondent**
CUSTOM HOUSE,
NEAR ALL INDIA RADIO NAVRANGPURA,
AHMEDABAD, GUJARAT

APPEARANCE:
Shri Manish Jain, Advocate appeared for the Appellant
Shri Sanjay Kumar, Superintendent (Authorized Representative) for the Respondent

CORAM: HON'BLE MR. RAJU, MEMBER (TECHNICAL)
HON'BLE MR. SOMESH ARORA (JUDICIAL)

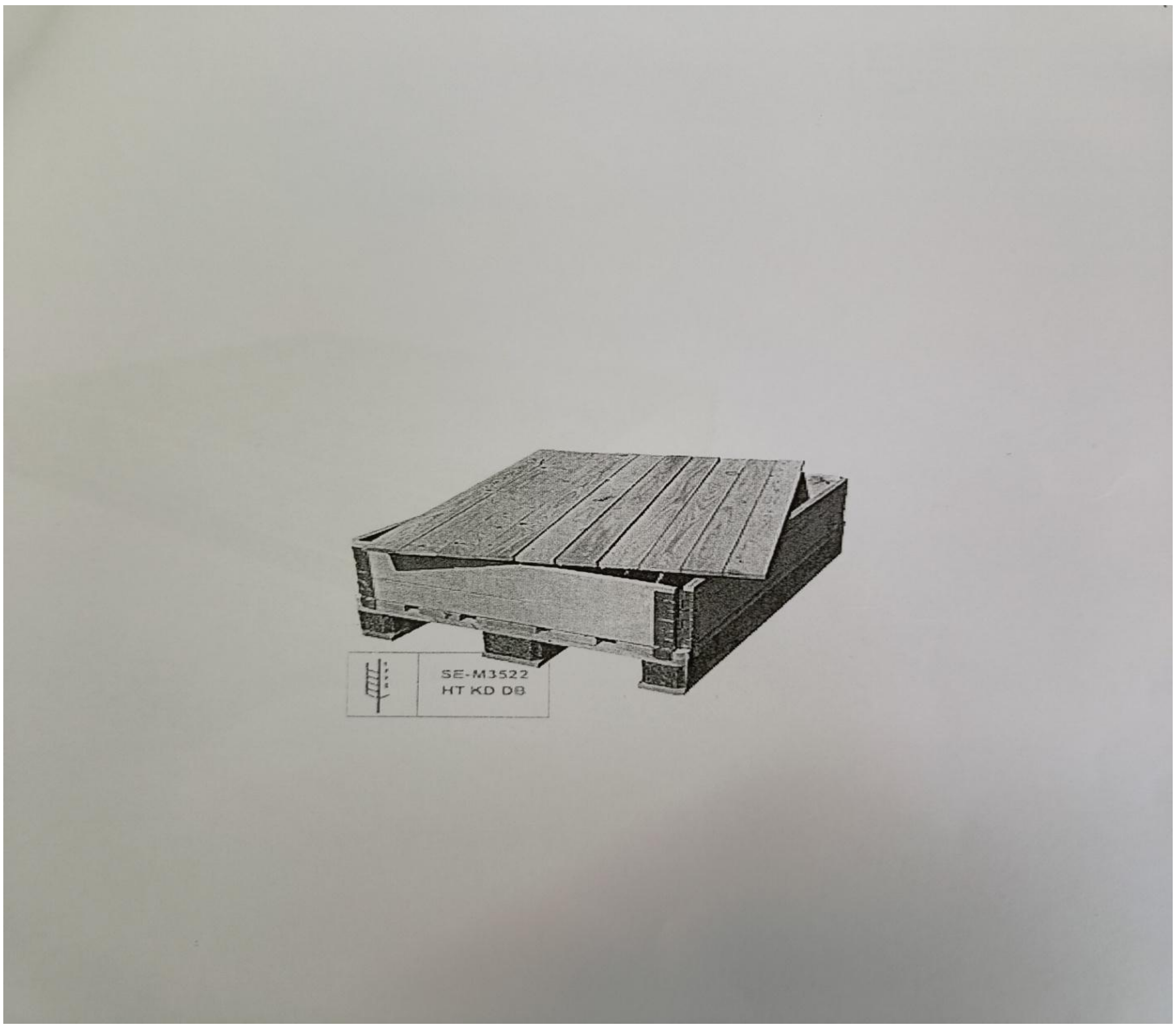
FINAL ORDER No. 11602 /2023

DATE OF HEARING:24.07.2023
DATE OF DECISION:24.07.2023

SOMESH ARORA

The dispute in this case relates to eligibility of the appellants in relation to Notification No. 104/94-Cus dated 16.03.1994 and whether the so termed Pallets which have got lifted four walls and a bottom and top layer and which are capable of containing (as per the appellant's various auto parts) during the course of import and export will be considered as durable container or not. The appellants state that they have brought these Pallets which are figuring at page 46 of Paper book (dated 02.03.2023) and which the appellants claim were brought by them in non-assembled and disassembled form for ease of transportation and same are as per EUR Standard (UIC CODE 435-2 and IPPC approved) are nothing but durable containers and are straightaway eligible for the aforesaid notification.

Pictorial depiction as below:



2. As against this, the department considering that the impugned products are Pallets and in unassembled and disassembled form and there is no proof of the same having been exported, as is the requirement of Notification made out the present case and upheld the demand. The learned AR reiterates the findings of the lower authorities.

3. The appellant further submitted that they are in a position to indicate that the other conditions of the Notification were duly fulfilled by them and the Pallets were re-exported from time to time.

4. Having gone through facts of the case, we find that though described as Pallets, the impugned goods are nothing but containers and capable of containing auto parts. They are also capable of further

use and the appellants have brought on record before us some evidence indicating that they were exported, on the genuineness of which we are not commenting at present. However, this court is of the view that the goods are nothing but containers of durable use and therefore, otherwise eligible for benefit subject to other conditions of the Notification. We, accordingly, remand the matter back to the adjudicating authority with above observations and to decide eligibility of the appellants accordingly. Appeal partly allowed.

(Dictated and Pronounced in the open court)

(RAJU)
MEMBER (TECHNICAL)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Neha