

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

REGIONAL BENCH- COURT NO. 3

**Excise Appeal No. 11858 of 2013-DB**

(Arising out of OIA-PJ/615/VDR-I/2012-13 dated 25/03/2013 passed by Commissioner of Central Excise, CUSTOMS (Adjudication)-VADODARA-I)

**Reckon Diagnostics P Ltd**

3/7, Industrial Estate,  
Gorwa, Vadodara, Gujarat

.....Appellant

*VERSUS*

**C.C.E. & S.T.-Vadodara-I**

1st Floor...Central Excise Building,  
Race Course Circle,  
Vadodara, Gujarat - 390007

.....Respondent

**APPEARANCE:**

Shri Dhaval Shah, Advocate for the Appellant

Shri P.Ganesan, Superintendent (AR) for the Respondent

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

**Final Order No. A/ 11625 /2023**

DATE OF HEARING: 03.07.2023

DATE OF DECISION: 03.07.2023

**RAMESH NAIR**

This appeal is directed against the OIA No PJ/615/VDR-I/2012-13 dated 25.03.2013 whereby the Learned Commissioner (Appeals) set aside the demand of Rs. 86,474/-. However, the demand of Rs. 77453/- was upheld on the ground that the appellant have filed only one appeal against the Original order appearing two order number therefore he considered the appeal is against one order only. Accordingly, in respect of one order number demand was set aside and in respect of other order number the demand was upheld. Therefore, the present appeal filed by the appellant.

2. Shri Dhaval Shah, Learned Counsel appearing on behalf of the appellant submits that as of now it is settled law that even though there are more than one order-in-original, if one common order is passed appearing more than one order-in-original number only one appeal is sufficient against more

than one order number mentioned in the Order-In-Original. Therefore, one appeal filed by the appellant before the Commissioner (Appeals) against the order-in-original even though appearing more than one order number is correct and legal. Therefore, the Commissioner (Appeals) should have decided the appeal against both the order-in-original numbers. He placed reliance on the following judgment:-

- CMR Nikkie India Pvt Ltd Vs. CC - 2021 (6) TMI 270 (Tri. Ahmd)
- Escorts Ltd – 2007 (207) ELT 287 (Tri. Del)
- Satake India Engineering P. Ltd – 2014 (303) ELT 451 (Tri. Del)

3. Shri P. Ganesan, Learned Superintendent (AR) appearing on behalf of the Revenue reiterates the finding of the impugned order.

4. We have carefully considered the submission made by both sides and perused the records. We find that as per the contention of the Learned Commissioner (Appeals), the appellant was supposed to file two appeals against the order-in-original bearing two order numbers. Therefore, he considered the appeal only against one order number which was allowed whereas the appeal against the second order number was dismissed holding that the second appeal number was uncontested.

4.1 We find that the issue is that whether against one order-in-original even though bearing more than one order number only one appeal lies or number of appeals in accordance with the number of orders-in-original are required to be filed. This issue has been considered time and again in the judgments cited by the learned counsel which is reproduced below:-

- CMR Nikkie India Pvt Ltd vs. CC - 2021 (6) TMI 270 (Tri. Ahmd)  
*"The brief facts of the case, only on the preliminary issue that only one appeal or multiple appeals to be filed. are that the appellant filed one appeal against one Order-in-Appeal whereby, the 84 appeals filed by the appellant against 84 Bills of Entry were disposed of. The registry has pointed out the defect that the appellant is required to file 84 appeals since in the form of Order-in -Original 85 bills of entry were challenged.*

2. *Shri Paritosh Gupta, Learned Counsel appearing on behalf of the appellant submits that as per Rule 6A of CESTAT Procedure Rules, 1982, the appellant is required to file only one appeal against Order-in-Appeal even though 84 bills of entries are involved. He also placed reliance on the larger bench judgment in the case of Eicher Motors Limited-2000 (116) ELT 306 (Tri.)*

3. *On the other hand Shri Sanjiv Kinker, Learned Superintendent (Authorized Representative) appearing on behalf of the revenue submits that as per explanation to Rule 6A of CESTAT Procedure Rules 1982 which is clear that appeal before this tribunal should be as many as number of bills of entry therefore, the appellant is required to file 84 appeals. He submits that this very same issue has been considered by this very bench and held that numbers of appeals should be according to the number of Bills of Entry. He placed reliance on the following judgment:*

• *Do Best Infoway Application Diary No-10055 of 2020 order dated 28.02.2020*

4. *We have heard both the sides and perused the records. In this order we have to decide only the preliminary issue that in the given facts whether one appeal is sufficient or appellant is required to file 84 appeals. In this regard the relevant Rule 6A of CESTAT Procedure Rules 1982 is reproduced below. :-*

*"RULE[6A. The number of appeals to be filed- Notwithstanding the number of show cause notices, price lists, classification lists, bills of entry, shipping bills, refund claims/demands, letters or declarations dealt with in the decision or order appealed against, it shall suffice for purposes of these rules that the appellant files one Memorandum of Appeal against the order or decision of the authority below, along with such number of copies thereof as provided in rule 9"*

*Explanation.-(1) In a case where the impugned order -in-appeal has been passed with reference to more than one orders-in-original, the Memoranda of Appeal filed as per Rules 6 shall be as many as the number of the orders-in-original to which the case relates in so far as the appellant is concerned.*

*(2)In case an impugned order is in respect of more than one person, each aggrieved person will be required to file a separate appeal (and common appeals or joint appeals shall not be entertained).]*

4.1 *From the plain reading of the above rule it is clear that in case there are number of bills of entry but for all the Bills of Entry if one order or decision is given then only one appeal will be sufficient. However, as per explanation to the said rule it is clear that when more than one Order-in-Original was passed assessee is required to file number of appeals as many as numbers of Orders-in-Original. In the present case there is no single order covering 84 bills of entry was passed but the 84 bills of entry itself were challenged by filing 84 appeals before the Commissioner (Appeals). In this fact 84 bills of entry are as good as 84 assessment orders. Therefore, the appellant is required to file 84 appeals. This issue has been considered by this tribunal in the case of Do Best Infoway (Supra) wherein this tribunal has passed the following order.*

*"The Registry has issued a defect memo raising a defect that appellant has filed only one appeal whereas the order-in-original in the form of Bills of Entry are in 13 numbers. Accordingly, 13 appeals are required to be filed. The appellant is directed to file 12 more appeals"*

5. *As regard the reliance placed by Learned Counsel in case of Eicher Motors Limited, the facts of that case is different from the facts of the present case. Therefore, the ratio of Eicher Motors shall not apply to this case. Accordingly we direct the appellant to file 83 more appeals within a period of 4 weeks from the date of order.*

- Escorts Ltd – 2007 (207) ELT 287 (Tri. Del)

*"The Hon'ble Registrar has referred this matter under an impression that there is a conflict of opinion on the issue relating to filing of one appeal on the basis of number of order- in-appeal. In his opinion, since it was held in the decisions in Ekantika Copier [1991 (56) E.L.T. 350 (Tribunal)] and in M.I. Metal Section [1994 (74) E.L.T. 868 (Tribunal)], separate appeals were required to be filed when a common order was made, whereas as held in Alliance Mills case [1996 (81) E.L.T. 615 (Tribunal)], only one appeal was required to be filed. It however appears that the Hon'ble Registrar has overlooked the fact that a larger bench decision of five Members of the Tribunal have disagreed with the opinion in Ekantika Copier and M.I. Metal Section cases and have agreed with the view taken in Alliance Mills case. It has been held by the larger bench in Eicher Motors Ltd., v. Collector of Central Excise, Indore reported in 2000 (116) E.L.T. 306 (LB) that once a judicial or quasi-judicial authority passes a compendious order disposing of a number of SCNs, for the purposes of filing appeal to a higher authority, there is no need to prefer as many appeals as there were SCNs. The larger bench held as under :-*

*"The observations of the Apex Court in Narahari & Others case appears to lend support (though indirectly) to the contention of the assessee before us that once a judicial or quasi-judicial authority passes a compendious order disposing of a number of SCNs, for purposes of filing appeal as higher authority, there is no need to prefer as many appeals as there were SCNs. The fact that the compendious order was passed at the state of Order-in-Original or the Order-in-Appeal does not really make any difference in principle. This principle would apply both in the case of Section 35 and 35B. The distinction sought to be made on the basis of the number of orders passed at the stage of Order-in-Original or Order-in-Appeal would not in our opinion, make any difference. As has been observed by the Bombay High Court in Hansa Agencies case and Gujarat High Court judgement in Patel & Co. case, so long as the Act or the Rules do not bar filing of a single appeal before the higher Appellate Authority from a compendious order of the lower authority, there can be no objection to an appellant filing a single appeal before the Tribunal from the order of the Commissioner or the Commissioner (Appeals), as the case may be, from a single order disposing of more than one SCN. We are therefore unable to agree with the majority opinion in Ekantika Copiers case and the SRB decision in M.I. Metal Sections case. We are in agreement with the view taken in the Alliance Mills case that one Appeal to the Tribunal would suffice where the impugned order is one irrespective of the number of SCNs".*

*2. It was also held that a single appeal filed against such an order cannot be held to be irregular only for the reason that the impugned order had dealt with more than one SCN. Recent amendment to CEGAT (Procedure) Rules by way of insertion of Rule 6A further confirms the view taken by the larger bench. In this view of the matter, there was no occasion to make a reference on the ground that there was conflict of opinion between the larger bench of five Members and a judgement of bench consisting of lesser members. In such cases, the view of the larger bench would obviously prevail. We, therefore, hold that since in the present case, appeal has been filed against the order, which is made in respect of two SCNs, it being a compendious order as contemplated in the decision of the larger bench, single appeal would be maintainable. Registry to act accordingly."*

- Satake India Engineering P. Ltd – 2014 (303) ELT 451 (Tri. Del)

*"The several appeals were preferred against orders-in-original. Each of the adjudication orders were common orders passed in respect of multiple show cause notices. Registry has raised an objection that each of the appellant's must file as many appeals as distinct numbers given to each composite orders-in-original. The core question therefore is whether provisions of*

Rules 6A, incorporated into the CESTAT (Procedure) Rules, 1982, by an amendment w.e.f. 13-5-1999, requires separate appeals being filed. The validity of the office objection is referred to us for judicial resolution.

2. To the extent relevant and material, Rule 6A reads :

*"The number of appeals to be filed. - Notwithstanding the number of show cause notices, price lists, classification lists, bills of entry, shipping bills, refund claims/demands, letters or declarations dealt with in the decision or order appealed against, it shall suffice for purposes of these rules that the appellant files one Memorandum of Appeal against the order or decision of the authority below, along with such number of copies thereof as provided in Rule 9.*

Explanation :

(1) *In a case where the impugned Order-in-Appeal has been passed with reference to more than one Orders-in-Original, the Memoranda of Appeal filed as per Rule 6 shall be as many as the number of the Orders-in-Original to which the case relates insofar as the appellant is concerned.*

(2) *In case an impugned order is in respect of more than one persons, each aggrieved person will be required to file a separate appeal (and common appeals or joint appeals shall not be entertained)".*

3. *The very issue has successively invited interpretations, between the Registry and appellants and has invited several judgments by this Tribunal.*

4. *The legal position, prior to the introduction of Rule 6A was settled by the decision of the Larger Bench in Eicher Motors Limited v. Collector of Central Excise, Indore - 2000 (116) E.L.T. 306 (Tri.). Eicher Motors presented a factual scenario of a composite adjudication order passed by the Commissioner, with distinct numbers and in respect of plurality of show cause notices. The Larger Bench after analyses of precedents including of the Supreme Court overruled the majority opinion in Ekantika Copiers (P) Ltd. v. Collector - 1991 (56) E.L.T. 350 (Tri.) and another decision of this Tribunal in M.I. Metal Sections (P) Ltd. v. Collector - 1994 (74) E.L.T. 868 (Tri.) and concluded that one appeal to the Tribunal would suffice where there is one impugned order irrespective of the number of show cause notices; that there is no bar in the relevant legislations or in the rules mandating multiple appeals being filed against composite orders passed pursuant to separate show cause notices; and that the amendment to CESTAT (Procedure) Rules w.e.f. 13-5-1999, with the introduction of Rule 6A, has no retrospective effect and would not be applicable to the factual matrix presented in Eicher Motors Limited. This decision of the Larger Bench was followed in Escorts Limited v. Commissioner of Central Excise, Faridabad - 2008 (11) S.T.R. 532 (Tri.-Del.) = 2007 (207) E.L.T. 287 (Tri.-Del.).*

5. *On a true and fair construction of the provisions of Rule 6A it is clear that while the declaration of principle by the Larger Bench in Eicher Motors Limited is no longer applicable in respect of appeals to the Tribunal preferred against orders of the Commissioner (Appeals), the principle continues to have application in respect of appeals preferred to the Tribunal against adjudication orders passed.*

6. *Rule 6A of the CESTAT (Procedure) Rules, 1982 requires one Memorandum of Appeal to be preferred against the order or decision of the authority below, notwithstanding the number of show cause notices, price lists, classification lists, bills of entry, shipping bills, refund claims/demands, letters or declarations adjudicated in the decision or order to the appealed against. Thus, where an adjudication order and is passed in respect of several show cause notices by way of a composite order, only one appeal need be filed. This is so irrespective of whether the composite order-in-original is given a single number or multiple numbers. However, where distinct numbers are given to a composite adjudication order, passed in respect of a several show cause notices, and against such adjudication order appeals are preferred to the Commissioner (Appeals), in such*

*circumstances, as many appeals must be filed before this Tribunal as the number of orders-in-original to which the case relates, in so far as the appellant is concerned. This is a consequence of Explanation (1) to Rule 6A.*

*7. In the present matters, in respect of which this reference is preferred to the Bench, the subject matter of the challenge in each of the appeals is to a composite order-in-original bearing distinct numbers pertaining to multiple show cause notices. In the circumstances it is Rule 6A and not Explanation (1) that applies. As a consequence one appeal against each of the impugned orders-in-original, even though distinct numbers are provided by the adjudicating authority to each of the composite orders, would suffice.*

*7. The issue is accordingly answered.*

*8. We also direct that henceforth if an appellant lodges a response to an office objection raised and requests that should the Registry be disinclined to accept the appellant's explanation to the objection, the matter be placed for judicial determination, the Registry shall place such dispute for resolution, before the appropriate Bench having the roster."*

4.1 In view of the above concurrent views taken by different division bench of this Tribunal it is settled that against one order-in-original even though bearing more than one order number only one appeal needs to be filed. Accordingly, the appellant was legally correct in filing one appeal against order-in-original bearing two numbers before the Commissioner (Appeals). Therefore, the Learned Commissioner (Appeals) erred in not considering the appeal against the second order number which is related to the demand of Rs. 77,453/-. Therefore, the impugned order is modified to the above extent and the matter is remanded to the Commissioner (Appeals) to decide the appeal on merit to the extent it relates to the demand of Rs. 77,453/-.

5. Accordingly, the appeal is allowed in the above terms.

(Operative portion pronounced in the open court)

**RAMESH NAIR  
MEMBER (JUDICIAL)**

**C.L.MAHAR  
MEMBER (TECHNICAL)**