

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

REGIONAL BENCH- COURT NO. 1

CUSTOMS Appeal No. 10508 of 2020-DB

(Arising out of OIA-JMN-CUSTM-000-APP-005-008-2020-21 Dated-08.06.2020 passed by Commissioner of Central Excise, Customs and Service Tax-AHMEDABAD-I(Appeal))

ASHWIN CORPORATION

D/265 KALIYABID RAMNAGAR
BHAVNAGAR-BHAVNAGAR-GUJARAT

.....Appellant

VERSUS

C.C., JAMNAGAR (PREV)

SHARDA HOUSE...BEDI BANDAR ROAD,
OPP. PANCHAVATI, JAMNAGAR-GUJARAT

.....Respondent

WITH

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GGSBY INDUSTRIES PVT LTD

D/265 KALIYABID RAMNAGAR
BHAVNAGAR-BHAVNAGAR-GUJARAT

.....Appellant

VERSUS

C.C., JAMNAGAR (PREV)

SHARDA HOUSE...BEDI BANDAR ROAD,
OPP. PANCHAVATI, JAMNAGAR-GUJARAT

.....Respondent

APPEARANCE:

Shri Rahul Gajera, Advocate appeared for the Appellant

Shri A.R. Kanani, Superintendent (Authorized Representative) for the Respondent

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

Final Order No. A/ 10402-10403 /2024

DATE OF HEARING:09.02.2024
DATE OF DECISION:09.02.2024

RAJU

This appeal has been filed against the order of demanding customs duty on the oil contained in the tanks in the ship imported for breaking purposes.

2. Learned counsel for the appellant pointed out that the issue has been settled by the decision by the decision of Tribunal in the case of Navyug Ship Breakers 2022 (12) TMI 100 which has been upheld by the Hon'ble Supreme Court in the case of Mahalakshmi Ship Breaking Corporation 2023 (5) CENTEX 193 (SC).

3. Learned Authorized Representative relies on the impugned order.
4. We have considered the rival submissions. We find that in the instant case the Order in Original speaks only about the tank contained within the engine room and there is no specific finding about any tank outside the engine room. In this context, the para 5.5 of order of Tribunal in the case of Navyug ship Breaking Co. (supra) becomes relevant which reads as follows:

“5.5 As regards, the Oil contained in Bunker Tanks outside the engine room of vessel, despite duty was paid under protest, there is, however, no speaking order passed as regards the same. It can be seen that if the tanks containing Oils are connected with pipeline with the engine or machinery of the vessel, there may be no reason why the same cannot be treated as integral part of the engine or machinery of the vessel. However, since there is no speaking order on that part of issue, we direct the adjudicating authority to pass speaking order in respect of duty pertaining to Oil contained in Bunker Tanks outside the engine room of vessel.”

5. In view of above, the impugned orders are set aside and matter is remanded to the adjudicating authority to decide in terms of order in the case of Nauyg Ship Breaking Co. (supra).

(Dictated and Pronounced in the open court)

(RAJU)
MEMBER (TECHNICAL)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Neha