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

REGIONAL BENCH : COURT NO. 3

Customs Appeal No. 467 of 2011-DB

[Arising out of Order-in-Original/Appeal No 206-2011-CUS-COMMR-A--KDL dated 22.06.2011 passed by Commissioner of CUSTOMS-KANDLA]

Hindustan Copper Ltd ...Appellant

1, Ashutosh Chowdhury Avenue,
Tamra Bhawan,
KOLKATA,
WEST BENGAL-700019

VERSUS

C.C.-Kandla ...Respondent

CUSTOM HOUSE,
NEAR BALAJI TEMPLE,
KANDLA,
GUJARAT

APPEARANCE:

Present For the Appellant : Shri Dhaval Shah, Advocate

Present For the Respondent : Shri G. Kirupanandan, Superintendent (AR)

CORAM:
HON'BLE MEMBER (JUDICIAL) ,ASHOK JINDAL
HON'BLE MEMBER (TECHNICAL),RAJU

FINAL ORDER NO. A/12501 / 2021

DATE OF HEARING : 10/11/2021

ASHOK JINDAL

The appellant is in appeal against impugned order where the refund claim has been rejected on account of the fact that appellant has not passed the bar of unjust enrichment.

2. The facts of the case are that the appellant imported consignment of copper concentrated and filed bills of entry. Initially bills of entry were allowed to be cleared provisionally on payment of higher duty. Later on, final assessment was passed at a lower value. Therefore, the refund claim arose which the appellant filed and same was considered by the Adjudicating Authority who held that due to lack of production of complete documents, the appellant has failed to pass the bar of unjust enrichment. The said order

was appealed before the Commissioner (Appeals) who also found that the relevant documents to examine the issue of unjust enrichment was not produced. So he rejected the claim. Against the same order, the appellant is before us.

2. Heard the learned counsel for the appellant who stated that he is not able to produce any supportive documents in support of the refund claim except the CA certificate which was filed before the authorities below. Therefore, he prayed that being a public sector undertaking, a lenient view may be taken that bar of unjust enrichment has been passed.

3. Considering the fact that mere production of CA certificate is not a conclusive evidence for examination of the bar of unjust enrichment and no other documents have been produced by the appellant in support of their refund claim. Therefore, we do not find any reason to interfere with the impugned order.

4. In view of the above discussion, we dismiss the appeal.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Diksha