

**CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,  
West Zonal Bench, Ahmedabad**

Appeal No. C/10015-10034, 10657-10660/2017-DB

(Arising out of OIA BVR-EXCUS-000-APP-150-169-16-17 dated 29/09/2016 passed by the Commissioner of Central Excise and Service Tax-BHAVNAGAR and OIA BHV-EXCUS-000-APP-243-16-17 dated 23/01/2017 passed by Principle Commissioner Customs, Excise and Service Tax-BHAVNAGAR)

**C.C.E. & S.T., Bhavnagar** - **Appellant**

Vs.

**Alcock Ashdown Guj Ltd.** - **Respondent**

**Represented by:**

For the appellant : Shri T.G. Rathod, Jt. Commr. (AR)

For the respondent : None

**CORAM:**

**Hon'ble Mr. Ramesh Nair, Member (Judicial)**

**Hon'ble Mr. Raju, Member (Technical)**

Date of Hearing/Decision: 20.12.2018

Order no. **A/12910-12933 / 2018**

*Per: Ramesh Nair*

All these appeals filed by the Revenue on the common issue that whether the Respondent is required to pay duty on goods warehoused when the warehousing period of one year is expired from the date of deposit of goods in warehouse under section 60.

2. Shri T.G. Rathod, Jt. Commr.(AR) appearing on behalf of the Revenue submits that once the warehouse period is expired, the goods warehoused in the warehouse are deemed to be cleared. Accordingly, the required duty is payable. Therefore, after expiry of the warehousing period, the respondent is required to pay the duty. He reiterates the grounds of appeal made by the Revenue in the appeals.

3. None appeared on behalf of the respondent.
4. We have carefully considered the submission made by Ld. AR and perused the records. On going through Commissioner (A) order, we find that there is no dispute that the goods which were warehoused were used in the manufacture of ocean going vessels. Once the warehoused goods were used in the manufacture, the same does not exist and, accordingly, no duty can be demanded irrespective of the fact that whether the period of warehousing is expired or otherwise. The Ld. Commissioner (A) of Central Excise, Ahmedabad in the case of CCE Vs. Alang Marine Ltd. passed OIA no. 30/2007 (BVR)CE/Raju/ Commr.(A)/Ahd. dated 17/07/2007 wherein the similar issue has been considered and following order has been passed:

*"The goods were initially bonded in Mumbai and then moved to Bhagnagar under Bond to the private bonded warehouse of the appellant. The exemption contained in these notifications is explicitly subject to use of the material/parts so imported, in accordance section 65 of the Customs Act, which relates to manufacture of goods in bonded warehouse.*

*The OIO treats the goods (inputs) as if the same are lying unused. It essentially confirms the demand on the inputs as such. This is done because extension of 'warehousing period' of the said inputs was denied. What it fails to consider is that at the time of issue of notice the said goods were already consumed and were no longer in existence. In fact both the notification exempts "Raw material & parts for use in the manufacture of goods falling under specified heading, in accordance with provisions of Section 65 of Customs Act, 1962 (52 of 1962)". Thus once goods are used for manufacture in bond the condition of Notification is fulfilled. Para*

*6 of the OIO mentions that the appellant had extension of warehousing period up to 31-01-2001 for the item no. 1 above. For item no. 2 above the para 9 of OIO indicated that extension was granted up to 12-02-2001. Both the items were issued for manufacture within this period for which extension was granted. The goods were issued for manufacturing in bonds on 14-5-96 & 18-7-2000 respectively. Once used for manufacture the inputs/parts lose identity and become the final product (ship in this case). The appellant has asserted this in their appeal memo para 6. The same has also been stated in the 5<sup>th</sup> para of Supt (Bhavnagar) AR-III letter dt. 27.3.2002 (enclosed along with appeal memo). Once the goods are used for purpose specified in the notification within extended period under a valid Sec 58/65 registration for manufacture in bond the condition of rectification are fulfilled.*

*Now when the goods manufactured i.e. ship out of this imported material, are broken, the duty as applicable under the notification can be changed. This is logical since ships and floating structures have also been given exemption from BCD & ADC and are subject to same treatment. The condition of manufacture in bond is simply to ensure supervision and use of goods for specified purpose. The manufacture product, i.e. ships when cleared from the bond will attract the duty as applicable to such ships at the time of clearance."*

In view of above order, which was not challenged by the department, the issue is no more under dispute. Therefore, we do not find any infirmity in the impugned order. Agreeing with the findings of the Commr.(A) coupled

with the finding of Commr. (A) in the case of Alang Marine Ltd. (supra), we uphold the impugned order and dismiss the Revenue's Appeals.

*(Operative part of the order dictated and pronounced in the open Court)*

**(Raju)**  
Member (Technical)

**(Ramesh Nair)**  
Member (Judicial)

*DS*