

Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad
REGIONAL BENCH- COURT NO.3

Customs Appeal No.11137 of 2016

(Arising out of OIA-JMN-CUSTM-000-APP-246-282-15-16 dated 29/03/2016 passed by
Commissioner of CUSTOMS-JAMNAGAR(PREV))

Vijay Ship Breaking Corporation

Plot No. 64, S B Y Alang,
P O Manar, Bhavnagar, Gujarat

.....Appellant

VERSUS

C.C.-Jamnagar(prev)

Sharda House...Bedi Bandar Road,
Opp. Panchavati, Jamnagar, Gujarat

.....Respondent

WITH

- i. Customs Appeal No.11254 of 2016 (Unique Ship Breaking Corporation)**
- ii. Customs Appeal No.11255 of 2016 (Unique Ship Breaking Corporation)**
- iii. Customs Appeal No.11276 of 2016 (Shree Saibaba Ship Breaking Co.)**
- iv. Customs Appeal No.11286 of 2016 (Malwa Ship Breaking Co)**
- v. Customs Appeal No.11305 of 2016 (Kumar Steel India)**
- vi. Customs Appeal No.11423 of 2016 (Jai Bharat Steel Industries)**
- vii. Customs Appeal No.11425 of 2016 (Jai Bharat Steel Industries)**

APPEARANCE:

None appeared for the Appellants

Shri R P Parekh, Superintendent (Authorised representative) for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR
HON'BLE MEMBER (TECHNICAL), MR. RAJU
Final Order No. A/ 10195-10202 /2022

DATE OF HEARING: 18.02.2022
DATE OF DECISION: 23.02.2022

RAMESH NAIR

All these appeals are directed against the Orders-In-Appeal dated 29.3.2016 & 12.02.2016 passed by Commissioner (Appeals) whereby, the learned Commissioner (Appeals) dismissed the appeals on the ground of time bar as the appeals were filed after the stipulated time period of 60 days or 90 days in case of delay, as the case may be. When the matter was called

out, none appeared on behalf of the appellants therefore, the appeals are taken up for disposal.

02. We have heard Shri R.P.Parekh, learned Superintendent (Authorized Representative) appearing on behalf of the revenue.

03. We have carefully considered the submission made by learned AR and perused the records. As per the facts of all dates of receipt of Orders-In-Original and date of filing of appeals before the Commissioner (Appeals) pointed out by the learned AR in each appeal, we find that in the appeal Nos. C/11137/2016, C/11254/2016, C/11255/2016, C/11286/2016, C/11423/2016, C/11425/2016, it is admitted fact that the appellants have filed appeals before the Commissioner (Appeals) beyond 90 days. The learned Commissioner (Appeals) has no power to condone the delay after period of 90 days therefore, in our view the learned Commissioner (Appeals) has rightly rejected these appeals on time barred. We also uphold the said orders.

3.1 As regard the appeal No. C/11276/2016, it is observed that the appeal was filed within time as the date of receipt of the Order-In-Original was shown as 25.3.2014 and the appeal was filed within 60 days i.e. on 19.05.2014 therefore, this appeal was wrongly rejected on the ground of time barred. Similarly, in case of Appeal No.C/11305/2016, the date of receipt of Order-In-Original is 19.08.2014 and the date of filing of appeal was shown as 03.11.2014, which shows that the appeal was filed within 90 days. In this case, the delay beyond 60 days is condoned.

04. As per the above facts and discussion, we pass the following order:-

(i) Appeal Nos. C/11137/2016, C/11254/2016, C/11255/2016, C/11286/2016, C/11423/2016, C/11425/2016 are dismissed

(ii) Appeal Nos. C/11276/2016 and C/11305/2016 are allowed by way of remand to the Commissioner (Appeals) for passing a fresh order on merits.

(Pronounced in the open court on 23.02.2022)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)