

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

REGIONAL BENCH- COURT NO.1

Customs Appeal No.10412 of 2020

(Arising out of OIA-JMN-CUSTM-000-APP-005-008-20-21 dated 08/06/2020 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-AHMEDABAD)

HARIYANA SHIP DEMOLITION PVT LTD

.....Appellant

Plot No. V-4 Sosiya, Po Manar
Bhavnagar, Gujarat

VERSUS

C.C.-JAMNAGAR(PREV)

.....Respondent

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

WITH

Customs Appeal No.10413 of 2020

(Arising out of OIA-JMN-CUSTM-000-APP-005-008-20-21 dated 08/06/2020 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-AHMEDABAD)

HARIYANA SHIP BREAKERS LTD

.....Appellant

Plot no. 14. Ship Breaking Yard, Alang,
Bhavnagar, Gujarat

VERSUS

C.C.-JAMNAGAR(PREV)

.....Respondent

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

APPEARANCE:

None appeared for the Appellant

Shri. Sanjay Kumar, Superintendent (AR) for the Respondent

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

Final Order No. 11650-11651 /2024

DATE OF HEARING: 24.07.2024
DATE OF DECISION:26.07.2024

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. No one appeared for the appellant. A letter was received where it was stated that the issue has been settled by the decision by the decision of Tribunal in the case of Navyug Ship Breaking Co. 2022 (12) TMI 100 which has been upheld by the Hon'ble Supreme Court in the case of Mahalakshmi Ship Breaking Corporation-2023 (5) CENTAX 193 (S.C.)

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 tank 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 not 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 Tacks outside the engine room of vessel."

5. Earlier vide order No. A/10402-10403/2024 dated 09.02.2024 the matter of ASHIWIN CORPORATION, a co-noticee, has been remanded.

6. 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 Navyug Ship Breaking Co. (supra)

(Pronounced in the open court on 26.07.2024)

(RAJU)
MEMBER (TECHNICAL)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Prachi