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

REGIONAL BENCH- COURT NO.3

Excise Appeal No.772 of 2011
(Arising out of OIA-RKA-149-SRT-I-2011 dated 24/03/2011 passed by Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

C.C.E. & S.T.-SURAT-I ......**Appellant**
New Building...Opp. Gandhi Baug,
Chowk Bazar,
Surat, Gujarat - 395001

VERSUS

ARCELORMITTAL NIPPON STEEL INDIA LTD. ....**Respondent**
27 K.M., Hazira-Surat Road, Hazira,
Surat
Surat, Gujarat

APPEARANCE:
Shri T.G Rathod, Additional Commissioner for the Appellant
Shri Aqeel Sherazi, Shri Purusharth Satish & Ms. Dimple Gohil for the Respondent

CORAM: **HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR**
HON'BLE MEMBER (TECHNICAL), MR. RAJU

Final Order No . A/ 10663 /2022

DATE OF HEARING: 16.02.2022
DATE OF DECISION: 07.06.2022

RAMESH NAIR

This appeal is directed against Order-In-Appeal No RKA/149/SRT-I/2011 dated 24.03.2011 passed by the learned Commissioner whereby, the learned Commissioner (Appeals) remanded the matter to the specified officer for re-consideration of the case. The revenue filed the present appeal on the ground that the learned Commissioner (Appeals) has no jurisdiction to entertain the appeal as the issue relates to the SEZ.

02. Shri T.G.Rathod, learned Additional Commissioner (AR) appearing on behalf of the revenue reiterates the grounds of appeal. He submits that in this case, there is a demand of customs duty against the respondent which was payable on exiting from the SEZ status. He submits that in case of SEZ Unit the Commissioner (Appeals) of Central Excise, has no jurisdiction. The jurisdiction lies with the Development Commissioner therefore; the Commissioner (Appeals) should not have entertained the appeal of the respondent. In support of his submission, he placed reliance on the various judgments and also notification whereby, the jurisdiction of Commissioner (Appeals) is decided.

03. Shri Aqeel Sherazi, learned counsel along with Shri Purusharth Satish & Ms. Dimple Gohil, Advocates appeared for the respondent. Shri Aqeel submits that the respondent had challenged the demand of differential duty demanded when the respondent unit exited from SEZ status. Therefore, in respect of demand of Customs Duty the jurisdiction lies before the Commissioner (Appeals). He pointed out that the order of the Commissioner (Appeals) itself shows that the title of the Commissioner (Appeals) is 'Commissioner (Appeals) Central Excise & Customs, Surat-I'. He submits that the unit fall within the geographical territory under Commissioner (Appeals), Surat-I. Therefore, the Commissioner (Appeals) has rightly exercised his jurisdiction and passed the impugned order.

04. We have carefully considered the submissions made by both the sides and perused the records. We find that both the sides have argued vehemently on the jurisdiction of Commissioner (Appeals) in the case the matter relates of SEZ Unit. We find that the sole ground of the revenue's appeal is of jurisdiction of Commissioner (Appeals) however, the department has not represented or raised any objection on jurisdiction of the Commissioner (Appeals) in deciding the appeal before him therefore, the Commissioner (Appeals) on no occasion to examine in detail the issue of his jurisdiction to decide the appeal in the matter of SEZ unit. Therefore, we are of the view that the matter needs to be re-considered by the Commissioner (Appeals) on the ground of jurisdiction.

05. Accordingly, we set aside the impugned order and remand the matter to the Commissioner (Appeals) to pass a fresh order after examining that whether he has jurisdiction to entertain the appeal before him in the matter of SEZ Unit. Appeal is disposed of by way of remand to the Commissioner (Appeals).

(Pronounced in the open court on 07.06.2022)

RAMESH NAIR
MEMBER (JUDICIAL)

RAJU
MEMBER (TECHNICAL)

Geeta