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

REGIONAL BENCH- COURT NO.3

Excise Appeal No.12171 of 2019

(Arising out of OIO-23-2019-CE dated 13/06/2019 passed by Commissioner of Central Excise, Customs and Service Tax-VAPI)

Shri Amit Gupta **........Appellant**
307, Express Tower, Azadpur Commercial Complex
Delhi

VERSUS

C.C.E. & S.T.-Vapi **.......Respondent**
4th Floor...Adharsh Dham Building,
Opp. Town Police Station, Vapi-Daman Road, Vapi
Vapi, Gujarat-396191

WITH

Excise Appeal No.12172 of 2019

(Arising out of OIO-23-2019-CE dated 13/06/2019 passed by Commissioner of Central Excise, Customs and Service Tax-VAPI)

Unnati Alloys Pvt Ltd **........Appellant**
205, Ajeet Bhawan, 4697/6, Ansari Road, Daryaganj
Delhi

VERSUS

C.C.E. & S.T.-Vapi **.......Respondent**
4th Floor...Adharsh Dham Building,
Opp. Town Police Station, Vapi-Daman Road, Vapi
Vapi, Gujarat-396191

APPEARANCE:
None appeared for the Appellant
Shri Ghanshyam Soni, Joint Commissioner (AR) for the Respondent

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

Final Order No. A/ 10808-10809 /2022

DATE OF HEARING: 07.07.2022
DATE OF DECISION: 07.07.2022

RAMESH NAIR

Shri Ghanshyam Soni, Learned Joint Commissioner (AR) appearing on behalf of the revenue pointed out that in this case the adjudication order was passed by Principal Additional Director General (Adjudication) Directorate General of GST Intelligence New Delhi, the appeal lies before the

Delhi Bench of this Tribunal. He also placed reliance on the following Judgments:

- A/12638/2021 dated 16.12.2021- SAVITHA NISAR Vs. ADJUDICATION DRI MUMBAI
- HARSARAN DASS SITA RAM Vs. CCE, PANCHKULA- 2015 (332) ELT 686 (P&H)
- PARAMOUNT CABLE CORPN. Vs. CCE, DELHI-I-2002 (150) ELT 528 (Tri-Delhi)
- NASHIK STRIPS P LTD Vs. CCE, NASHIK-2010 (256) ELT 307 (Tri-Mum)
- AGARWAL METALS & ALLOYS VS. CCE, VAPI- 2015 (325) ELT 276 (Bom)
- AGARWAL METALS & ALLOTS Vs. COMMISSIONER- 2016 (336) ELT A130 (SC)
- RELIANCE CELLULOSE PRODUCTS LTD. Vs. CCE, HYDERABAD-I- 2019 (6) TMI 1066-CESTAT HYDERABAD
- VIJAYSHREE ALLOYS Vs. CCE, PUNE-III- 2017 (1) TMI- CESTAT MUMBAI
- CCE, AHMEDABAD Vs. NAVNEET AGARWAL- 2012 (276) ELT 515 (Tri.-Ahmd)
- RANJEEV ALLOYS LTD Vs. CCE, CHANDIGARH- 2009 (236) ELT 124(Tri-Del)
- RANJEEV ALLOYS LTD Vs. CCE, CHANDIGARH- 2009 (247) ELT 27 (P&H)
- SAGAR INTERNATIONAL P LTD. Vs. CCE, DELHI-II- 2012 (280) ELT 451 (Tri-Del)
- CC, MADRAS & OTHERS Vs. D.BHOORMULL- 1983 (13) ELT 1546 (SC)
- DOLPHIN METALS I LTD Vs. CCE, AHMEDABAD-II- A/12639/2021 dated 31.12.2021

2. Considering the submission made by learned AR, I find that the identical issue of jurisdiction came before this tribunal wherein, the following order was passed:-

> *"This appeal is arising out of impugned order dated 22.09.2021 passed by the Additional Director General,(Adjudication), DRI ,Mumbai. Bench has raised a query that this order is not appealable before this bench since it was passed by the ADG,DRI, Mumbai the correct jurisdiction is CESTAT Mumbai.*

2. Shri Stebin Mathew, learned counsel appearing on behalf of the appellant submits that this bench has jurisdiction since the import of goods took place at Mundra Port, Gujarat. Accordingly, the action arose in Gujarat, Ahmedabad bench has jurisdiction. He submits Public Notice 2/2005 and 2/2006 and placed reliance on the following judgment:

- *Karamchand Appliances (P) LTD- 2008(227)ELT 437*
- *Dixson Cargo Consolidators Pvt.Ltd.- 2019 (365) ELT 366(Bom.)*

3. On the other hand, Shri J A Patel, Learned Superintendent (AR) appearing on behalf of the revenue strongly objects that the cause of action means passing of adjudication order which has been passed by the ADG (Adjudication), DRI, Mumbai. Therefore, the Mumbai bench has the jurisdiction .He also placed reliance on the following judgment:-

- *Areva T& D India Ltd- 2015-TIOL-2299-CESTAT-MAD*
- *Shirdi Industrial Ltd- 2016 (336)ELT 703 (tri.All)*

5. On careful consideration of the submission and the judgments relied upon by both the sides. We find that the impugned order was passed by the ADG (Adjudication),DRI, Mumbai. Accordingly, the appeal lies in the Mumbai bench and this Ahmedabad bench has no jurisdiction to entertain this appeal. Accordingly, the appeal is dismissed as non maintainable. Appellant has liberty to file the appeal before the Mumbai bench. Early hearing application also stands disposed of."

3. In the present case, similar to the above given judgment the impugned order was passed by the Principal Additional Director General (Adjudication) DGGI- Delhi. Therefore, in my view the appeal lies before the Delhi Bench accordingly, the appeals are dismissed as non- maintainable. The appellant is at liberty to file the appeals along with COD before the Delhi Bench of CESTAT.

(Dictated & Pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

Geeta