CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
AHMEDABAD
REGIONAL BENCH, COURT NO. 1

CUSTOMS APPEAL NO. 11112 OF 2018

[C/MISC/10485/2024]

[Arising out of Order-in-Original/Appeal No AHM-CUSTM-000-COM-012-17-18 dated 05.02.2018 passed by Principle Commissioner Customs, Excise and Service Tax-AHMEDABAD]

HINDALCO INDUSTRIES LTD **Appellant**

(Unit; Birla Copper),Village-Lakhigam, P.O.- Dahej,
Bharuch, Gujarat-392130

Vs.

COMMISSIONER OF CUSTOMS- Ahmedabad **Respondent**

Custom House,
Near All India Radio Navrangpura,
Ahmedabad,Gujarat

With

CUSTOMS APPEAL NO. 11272 OF 2018

[C/CROSS/10589/2018]

[Arising out of Order-in-Original/Appeal No AHM-CUSTM-000-COM-012-17-18 dated 05.02.2018 passed by Principle Commissioner Customs, Excise and Service Tax-AHMEDABAD]

COMMISSIONER OF CUSTOMS- Ahmedabad **Appellant**

Custom House,
Near All India Radio Navrangpura,
Ahmedabad,Gujarat

Vs.

HINDALCO INDUSTRIES LTD **Respondent**

(Unit; Birla Copper),Village-Lakhigam, P.O.- Dahej,
Bharuch, Gujarat-392130

Appearance:

Present for the Appellant : Shri Manish Jain, Advocate
Present for the Respondent: Shri A R Kanani, Superintendent (AR)

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

Date of Hearing/Decision : **30/08/2024**

FINAL ORDER NO. 11978-11979/2024

RAJU

This appeal has been filed by Hindalco Industries Limited against confirmation of demand and imposition of penalty. The revenue has also filed an appeal for imposition of redemption fine.

2. Learned Counsel pointed out that they are exported certain goods, however, due to certain reason the goods were rejected and sent back by the buyer. The appellant reprocessed the goods and exported the same again. The export was done under supervision of the Range Authorities. Later show cause notice was issued to them seeking to deny the benefit of re-export, on the ground that documentation was not sufficient to show that the goods imported were the same as the goods exported. The appellant had produced before Lower Authorities a certificate from bank and NOC from superintendent regarding the identity of goods. The demand has been confirmed on the ground that superintendent has failed to see the original documents from which he could have concluded that the identity of goods was same. By Miscellaneous Application the appellant has filed a fresh set of documents before the Tribunal. According to the appellant the said document would establish the identity of goods. The said documents were not produced before lower authority. Learned Counsel seeks admission on this documents as evidence.

3. Learned AR relies on the impugned order. He has no objection to the admission of the Miscellaneous Application. He relied on para 15 of the Order-In-Original and explained that at the time of re-export the identity of goods was not establish by the appellant.

4. We have considered the rival submissions. We find that the entire dispute relates to establishing identity of goods. According to the impugned orders appellant has sought to establish the identity on the basis of NOC received from Range Authority as well as on the base of supervision of export by the Range Authority. The said evidence was rejected by the Order-In-Original. However, appellant has produced the entire set of documents which according to him would establish identity of goods. Since, Lower Authority did not have opportunity to examine this documents, we set aside the impugned order and remand the matter back to the original Adjudicating Authority for fresh

adjudication, after examining the document submitted by the appellant. Miscellaneous Application is allowed.

Appeal of revenue seeking to impose redemption fine is also therefore discussed and matter is remanded for fresh adjudication.

(Dictated and pronounce in the open court)

(RAJU)
MEMBER (TECHNICAL)

(SOMESH ARORA)
MEMBER (JUDICIAL)

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