

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

REGIONAL BENCH- COURT NO.1

Customs Appeal No. 11509 of 2016

(Arising out of Order No. JMN-EXCUS-000-APP-024-027-16-17 dated 19.05.2016 passed by Commissioner (Appeals)- Ahmedabad)

Kiran Ship Breaking Co

Plot No. 82, Ship Breaking Year, Alang
Bhavnagar-Gujarat

...Appellant

VERSUS

C.C. -Jamnagar (Prev)

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

...Respondent

AND

Customs Appeal No. 11510 of 2016

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...Respondent

APPEARANCE:

Shri Rahul Gajera, Advocate appeared for the Appellant

Shri Anand Kumar, Superintendent (AR) appeared for the Respondent

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

FINAL ORDER NO. 10045-10046 /2025

DATE OF HEARING: 27.01.2025

DATE OF DECISION: 27.01.2025

SOMESH ARORA

The Learned Advocate appearing in the matter indicates that he was in appeal before the Learned Commissioner (Appeals) after the final assessment has been done and he, inter alia, pleaded various points on merits which were not considered since the Learned Commissioner (Appeals) was of the view that the appeal was not entertainable. Learned advocate pleads that this position is incorrect as the final assessment is always appealable as has also been held by the Hon'ble Supreme Court which rather indicated that the matter in which final

assessment has been done, should only be challenged further in appeal. He stated that his course of action was proper but unfortunately learned Commissioner (Appeals) failed to appreciate the provision and he has not decided the merits of the case.

2. Learned Authorised Representative confronted with the situation reiterates the order of the Commissioner (Appeals).

3. Considered the rival submissions.

4. This court is of the view that there has been a violation of natural justice in so far as the order does not speak anything in detail on merits. In view of this position, the matter is remanded back with direction to pass the speaking order by the learned Commissioner (Appeals), the appellant or his counsel shall be free to take any other legal pleas in this matter. Appeals are allowed by way of remand.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

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