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

REGIONAL BENCH- COURT NO. 01

Customs Appeal No. 10345 of 2015
(Arising out of OIA-AHM-CUSTM-000-APP-410-14-15 Dated- 11/02/2015 passed by Commissioner of CUSTOMS-AHMEDABAD)

Bodal Chemicals Ltd ....**Appellant**
Plot No. 123, 124, Phase-I, Gidc, Vatva,
Ahmedabad, Gujarat

VERSUS

C.C.-Ahmedabad ....**Respondent**
Custom House, Near All India Radio Navrangpura,
Ahmedabad, Gujarat

WITH
Customs Appeal No. 11568 of 2015
(Arising out of OIA-AHD-CUSTM-000-APP-118-15-16 Dated- 08/09/2015 passed by Commissioner of CUSTOMS-AHMEDABAD)

Bodal Chemicals Ltd ....**Appellant**
Plot No. 123, 124, Phase-I, Gidc, Vatva,
Ahmedabad, Gujarat

VERSUS

C.C.-Ahmedabad ....**Respondent**
Custom House, Near All India Radio Navrangpura,
Ahmedabad, Gujarat

APPEARANCE:
Shri. N.K. Tiwari, Consultant for the Appellant
Ms. Sunita Menon, Superintendent (AR) for the Respondent

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

Final Order No. 10117-10118 /2025

DATE OF HEARING:11.02.2025
DATE OF DECISION:11.02.2025

The short issue in these cases is that in July 2014 after the self assessment procedure had come into existence in 2011, the appellant party made self-assessment. However, on the basis of documents on record pertaining to country of origin, which was Thailand in the instant case, they were entitled to an alternate exemption which was somehow while doing self-assessment on 18.07.2014 missed out. On becoming aware of the mistake on 28.07.2014 after the goods were cleared. He had sought re-assessment from the department and not having heard anything from the department for quite some time, they filed appeal on 18 September, 2014 against the order of self assessment. Same was rejected by the learned Commissioner (Appeals) on the ground that the Board Circular No. 17/2011-Cus., dated 08 April, 2011 issued by the CBEC detailing implementation procedure of self assessment did not specifically provided for re-opening of self assessment.

2. Learned advocate relying on the decision in the matter of Bennet Coleman & Co. Ltd Vs. Commissioner of Customs, Bangalore reported in 2008 (232) ELT 367 (Tri.-Bang.). Supreme Court in the case of Shree Hari Chemicals Export Ltd. Vs. Union of India reported in 2006 (193) ELT 257 (S.C), emphasised that exemption benefit in any case, can be availed of at any stage. It was stated further that they are entitled as per the provision relating to amendment of documents under Section 149 to the amendment of their B/E, as the provision clearly provides that any document filed can be modified even post clearance subject to the condition that the document which is to be used as evidence was available even prior to clearance. He therefore stated that in the instant case, the certificate of origin from Thailand was a document which he was relying upon and which was very much part of the assessment documents.

3. Learned AR on the other places reliance on the above Board Circular and the absence of any direction in this regard as to how self assessment can be re-opened and thus reiterates the finding of the learned Commissioner (Appeals)

4. This Court has considered the rival submissions. It finds that the self assessment done by the party could only have been challenged either through the re-assessment sought for challenging the self-assessment or by going in appeal before appellate authorities. Both the courses were adopted

in time by the appellant in the instant matter. Even if, it is department's contention that party cannot open its own self-assessment and it is only the proper officer who can conduct the re-assessment in certain circumstances like audit, enforcement action etc. Still it cannot be denied that the course of action adopted by the party for availing alternate exemption through Commissioner (Appeals) was a proper as per the trite law. Learned Commissioner (Appeals) has therefore, clearly erred in not examining their entitlement based on the certificate of origin which was available on record.

5. Matter is therefore relegated back to the Commissioner (Appeals), as this Court is of the view that the matter needs to be re-looked and entitlement of appellant in principle can be re-examined even after self-assessment has been done, based on the cited decisions as indicated (supra). The Learned Commissioner (Appeals) should examine the entitlement in the light of the document which was available as on the date of clearance of goods as per provision of Section 149. Matter is remanded with the above direction.

6. Appeals allowed by way of remand

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Prachi