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

REGIONAL BENCH- COURT NO.3

**Customs Appeal No. 13896 of 2014**

(Arising out of OIA-AHM-CUSTM-000-APP-298-14-15 dated 18/09/2014 passed by Commissioner of CUSTOMS-AHMEDABAD)

**Atlantic Shipping Pvt Ltd** **......Appellant**
Ashford Centre, Opposite Peninsula Corporate Park,
Shankarrao Naram Marg,
Mumbai, Maharashtra

*VERSUS*

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

**APPEARANCE**
Shri. Murlidhar M. Panicker, Consultant appeared for the Appellant
Shri Rajesh Kumar Agarwal, Superintendent (AR) for the Respondent

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

**Final Order No. A/ 10326 /2023**

DATE OF HEARING: 17.02.2023
DATE OF DECISION: 17.02.2023

**Raju**

This appeal has been filed by Atlantic Shipping Pvt Ltd against demand of Customs duty on freight and insurance elements of the fuel consumed on conversion of foreign ships during costal runs.

2. Learned Consultant Shri. Murlidhar M. Panicker, appearing for the appellant pointed out that there is a practice of adopting the IOCL/ HPCL prices for assessment of such fuel consumed in the costal runs. He pointed out that they had in their letter dated 25.10.2013 to the Deputy Commissioner asserted that the IOCL price of identical goods adopted for other such imports should be adopted for their assessment as well. They had raised the said issue before the Commissioner (Appeals) also vide in para 4 of their letter dated 25.08.2014. He pointed out that both the lower authorities have failed to consider this point. He relied on the decision on SICAL LOGISTICS LTD. Vs. COMMR. OF C. EX., CUS & S.T., BHUBANESHWAR-2019 (369) E.L.T. 1104(Tri. Kolkata) and Larger Bench decision in the case of JET AIRWAYS (INDIA) LTD.-2021 (377) E.L.T. 83 (Tri.-LB). He pointed out in both these cases the assessment has been permitted on the basis of IOCL price of fuel consumed on conversion of ships from foreign runs to costal runs.

3. Learned AR relies on the impugned order.

4. We have considered the rival submissions. We find from the order of Larger Bench in case of JET AIRWAYS (INDIA) LTD (Supra) as well as from the decision in the case of SICAL LOGISTICS LTD (Supra) that there is a practice for adopting the IOCL/ HPCL price for the purpose of assessment of fuel consumed during costal runs in such cases. The appellant had made the claim before the Deputy Commissioner as well as before the Commissioner (Appeals) but the same has not been considered. From the case law cited by the appellant it appears that the case would be squarely covered by the said decisions. It is also agreed by the Learned Consultant that the dispute regarding the nature of this material is not been pressed by them. However, since this matter has not been examined by the lower authority, the impugned order is set aside the matter is remanded to the original adjudicating authority for fresh adjudication after considering the aforementioned decision of Tribunal.

5. Appeal is allowed by way of remand.

(Dictated & Pronounced in the open court )

**RAJU**
**MEMBER (TECHNICAL)**

**SOMESH ARORA**
**MEMBER (JUDICIAL)**

Prachi