CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL AHMEDABAD

REGIONAL BENCH, COURT NO. 1

CUSTOMS APPEAL NO. 246 OF 2012

[Arising out of OIO-07/COMMR/ICD-AHMEDABAD/JNPT/2012 dated 31/07/2012 passed by Commissioner of CUSTOMS-AHMEDABAD]

IDMC LTD **Appellant**
124-128, GIDC Estate,VithalUdyog Nagar,
Anand,Gujarat

Vs.

COMMISSIONER OF CUSTOMS-AHMEDABAD **Respondent**
Custom House,Near All India Radio,Navrangpura,
Ahmedabad,Gujarat

WITH

- **Customs Appeal No. 247 of 2012 (Banaskantha Dist Co Op Milk Products Union Ltd)**
- **Customs Appeal No. 248 of 2012 (K S Iyer)**
- **Customs Appeal No. 250 of 2012 (Mother Dairy Fruit & Vegetables Pvt Ltd)**
- **Customs Appeal No. 251 of 2012 (Rothak District Co Operative Milk Products Union Ltd)**

Appearance:
Shri. Manish Jain, Advocate for the Appellant
Shri. Girish Nair, Assistant Commissioner (AR) for the Respondent

CORAM:
HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)
HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER (TECHNICAL)

FINAL ORDER NO. 10305-10309/2025

Date of Hearing :22.04.2025
Date of Decision :22.04.2025

SOMESH ARORA

Matter was heard. The learned advocate seeks remand merely on the ground of limitation in this case being both a question of law and fact. The facts which were not considered while passing the impugned decision by the

Commissioner included the factum of examination of the goods in clearance by the Examining Office of the department.

2. Learned AR points out that the goods are mechanical in nature and therefore, the attention of the Examining Officer might not have been engaged towards the mechanical intricacies, because of the debatable nature of the products involved, including the reference of cooling units in the goods.

3. The fact that the goods were cleared after the examination, was sufficient to indicate that the Commissioner should have weighted the limitation proposition while passing its order. Similarly, on the point of classification of goods, the Commissioner should have appreciated whether there is any cooling unit or not available, and the relevant chapter notes, section notes as well as contemporaneous H.S.N explanatory notes etc. We find that the full discussion on these aspects is not available to us. Since the issue is of classification having all India ramifications, the points raised by the advocate cannot be set aside in a jiff. Matter is therefore remanded for fresh adjudication for consideration of all the aspects including classification as well as limitation. It will be open remand, therefore, both sides will be able to point out any fresh evidence, but only after providing the opportunity to the other side. The matter shall be decided within the scope of show cause notice.

4. The matter is remanded.

5. Appeal allowed by way of remand.

(Dictated and pronounced in the open Court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Prachi