CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT AHMEDABAD

REGIONAL BENCH – COURT NO. 03

CUSTOMS Appeal No. 12813 of 2014-DB

[Arising out of Order-in-Original/Appeal No 185-2014-CUS-COMMR-A--AHD dated 01.05.2014 passed by Commissioner of CUSTOMS-AHMEDABAD]

Meghmani Industries Ltd **...Appellant**

Plot No. 27, Phase-I,
Gidc, Industrial Estate, Vatva,
Ahmedabad
Gujarat-382445

VERSUS

C.C.-Ahmedabad **...Respondent**

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

APPEARANCE:
Shri Sudhansu Bissa, Advocate for the Appellant
Shri. Sanjay Kumar, Superintendent (Authorized Representative) for the Respondent

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

FINAL ORDER NO. A/10713 / 2023

DATE OF HEARING:23.03.2023
DATE OF DECISION:23.03.2023

RAJU

This appeal has been filed by M/s. Meghmani Industries Ltd., against rejection of their request for amendment in the drawback Shipping Bill.

2. Learned Counsel pointed out that they had exported certain goods and in the Shipping Bill they have claimed All Industry Rate by mistake. However, later on realizing that they were entitled to Brand Rate, they approached Revenue for fixation of Brand Rate and simultaneously approached customs for amendment in the Shipping Bill to change their claim from All Industry Rate to Brand Rate.

2.1 The request for fixation of Brand Rate was accepted by the Commissioner (Appeals), and the appeal filed by the Revenue against the said order were dismissed under the Litigation policy vide order No. A/10330/2023 dated 27.02.2023. Their request for the amendment of the Shipping Bill was however, rejected by the Commissioner (Appeals). The present appeal is against the said rejection of the request for amendment of Shipping Bill**.**

3. Learned AR relied on the impugned order, he submitted a report of the Deputy Commissioner about the status of the case.

4. We have considered the rival submissions, we find that order of Commissioner (Appeals) directing revenue to fix brand rate has become final as the appeal against it has been dismissed, although on monetary grounds. We find that the Brand Rate which was to be fixed in terms of the said order of Commissioner (Appeals) has not yet been fixed. The report of the Deputy Commissioner dated 16.03.2023 states as follows:

> "*2. Further, as can be seen from the Customs O.I.A. dt. 01.05.2014 that the appellant had applied for returning of drawback and amendment of Shipping Bill vide their letter dt. 14.05.2012. However, the said request was rejected vide letter 21.09.2012 by the D.C., I.C.D. Subsequently, the appellant, vide letter dt. 24/25.06.2013, had requested for speaking order in the matter. The request of the appellant was rejected vide letter dt. 28.10.2013. Therefore, the appellant had preferred appeal before Commissioner, Customs (Appeals) which was disposed off vide O.I.A dt. 01.05.2014 by way of rejection of the Appeal of the appellant.*
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> *3. Thus, it appears that in absence of any proof regarding fixation of brand rate as ordered under C. Ex. O.I.A. dt. 24.10.13 and rejection of Appeal by Customs O.I.A. for amendment of the relevant Shipping Bill, no disbursal of subsequent claim might have occurred."*

4.1 We also notice that Commissioner (Appeals) in the impugned order while rejecting the request for amendment of shipping bill has observed as follows:

> *"Here I would add that once Brand Rate is fixed and the appellant files the same for differential drawback, it would be incumbent upon the respondent- department to process the same, whether by amendment in system-based Shipping Bill is done or otherwise, as per any extant procedure or instruction, so that the appellant, if entitled, gets his drawback expeditiously. In sum, I reiterate that the appellant's request for amendment at that point was rightly not acceded to by the adjudicating authority in the given circumstances."*

4.2 We also take note of the fact that no reasons have been given in the impugned order for rejection of the request for amendment in the Shipping Bill except a finding of fact that revenue is bound to fix brand rate in terms of earlier orders of Commissioner (Appeals) when the request for the Brand Rate fixation has become final as the order of Commissioner (Appeals). The appeal against the earlier order of Commissioner (Appeals) directing fixation of Brand Rate has been dismissed. In this background, we find merit in the argument of the appellant. Thus order of Commissioner (Appeals) denying amendment of shipping bill cannot be sustained. The appeal is consequently allowed. The revenue is also directed to fix the Brand Rate as soon as possible within a period of 3 months. Appeal is allowed in the above terms.

(Dictated & Pronounced in the open Court)

(RAJU)
MEMBER (TECHNICAL)

(SOMESH ARORA)
MEMBER (JUDICIAL)

PALAK