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

REGIONAL BENCH- COURT NO. 1

Customs Appeal No. 10205 of 2016-DB
[C/Cross/10278/2016]

(Arising out of OIA-JMN-CUSTM-000-APP-099-117-15-16 dated 03/11/2015 passed by the Commissioner of Customs (Appeals)-Ahmedabad)

Commissioner of Customs -Jamnagar (Prev) ...... Appellant
SHARDA HOUSE...BEDI BANDAR ROAD,
OPP. PANCHAVATI,
JAMNAGAR, GUJARAT

VERSUS

Indian Oil Corporation Ltd ......Respondent
VADINAR, JAMNAGAR
JAMNAGAR, GUJARAT

With

Customs Appeal No. 10206 of 2016-DB
[C/Cross/10277/2016]

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Indian Oil Corporation Ltd ......Respondent
VADINAR, JAMNAGAR
JAMNAGAR, GUJARAT

APPEARANCE:
Shri Sanjay Kumar, Superintendent (AR) for the Appellant
Shri S J Vyas, Advocate for the Respondent

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

FINAL ORDER NO. 10538-10539/2025

DATE OF HEARING: 25.06.2025
DATE OF DECISION: 25.06.2025

SOMESH ARORA

The core of the issue is finalisation of provisionally assessed bills of entry by including various port charges such as pilotage, mooring fees, attendance fees of pilot, pull back charges, tug hire charges, etc. in the assessable value paid by the ship agents on behalf of the master of the vessel. The issue involved relates to bills of entry filed during the period from February, 2010 to August, 2010.

2. The respondents were issued two show cause notices both dated 10.11.2010, for finalisation of provisional Assessment. In the first show cause notice, 30 provisionally assessed bills of entry were involved out of which a proposal in respect of 23 bills of entry was to reject the request of M/s IOCL to exclude port charges (which was already included in the value) from the assessable value. In respect of remaining 7 bills of entry, it was proposed to include freight amount @ 20% of the FOB value as per the First Proviso to Rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007. In the second show cause notice, it was proposed to reject the request of M/s IOCL to exclude port charges (already included in the value) from the assessable value in respect of 2 bills of entry and inclusion of freight amount @20% of the FOB value as per the Proviso to Rule 10(2) of Customs (Determination of Value of Imported Goods) Rules, 2007 in the 3rd bill of entry for assessment. Both the show cause notices also propose adjustment of differential duty voluntarily paid by the respondent and charging of interest on the differential duty amount under Section 18(3) of the Customs Act, 1962.

3. These SCNs were decided by the Assistant Commissioner vide order-in-original No. 08/AC/TECH/2010-11 dated 18.02.2011 & No. 09/AC/TECH/2010-11 dated 28.02.2011 wherein the adjudicating authority confirmed the proposals made in the respective show cause notices. The appellant filed appeals before the Commissioner (Appeals) who vide order dated 03.11.2015 allowed the appeals of the party and to ascertain the actual amount, he remanded the case to the lower authority for re-calculating the assessable value.

4. In this case, the decision in the difference of opinion matter of M/s. Nayara Energy Ltd- 2025 (4) TMI 834 CESTAT-Ahmedabad was awaited which provided for open remand in the matter. Since, the decision is now available,

learned Advocate seeks open remand in view of the decision covering various charges which are present in this dispute also.

5. The learned AR points out that the decision in Nayara Energy Ltd. (cited supra) does not cover all kind of charges which are impugned by the appellants.

6. We have heard the rival submissions. In view of the foregoing, we remand the matter to learned adjudicating authority with directions to consider the decision in the case of Nayara Energy Ltd. (cited supra) and decide the matter afresh. The remand shall be open. If the matter involves any of the charges not specially covered by the decision in Nayara Energy Ltd. (cited supra) even then the reasons should be given in the order after according full opportunity to the appellants. Matter is remanded.

7. Appeals are allowed by way of remand. Cross objections are disposed of in above terms.

(Dictated and pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Raksha