Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench at Ahmedabad
REGIONAL BENCH-COURT NO. 1

Customs Appeal No. 10673 of 2024-DB

(Arising out of Order in Appeal No. AHD-CUSTM-000-APP-164-24-25 dated 31/07/2024 passed by Commissioner of Customs (Appeals)- Ahmedabad)

Sandvik Mining and Rock Technology
India Private Limited ......**Appellant**
Known as Sandvik Asia
Private Limited, Mumbai,
Pune Road, Dapodi,
Pune, Maharashtra-411012

VERSUS

Commissioner of CUSTOMS -Customs Ahmedabad ......**Respondent**
Office of the Pr. Commissioner of Customs, 1st Floor, Custom
House, Opposite Old High Court,
Navrangpura, Ahmedabad, Gujarat- 380009

APPEARANCE:
Shri Prakash Shah, Advocate for the Appellant
Shri Jaspreet Singh Sukhija, Additional Commissioner (AR) for the Respondent

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

Final Order No. 10679/2025

DATE OF HEARING: 28.08.2025
DATE OF DECISION: 28.08.2025

SOMESH ARORA

In this matter, learned Advocate for the appellant submits that they had deposited an amount of Rs. 1,02,45,639/- as EDD (extra duty deposit) for provisional assessment of their bills of entry as they have purchased the goods from their group company and the matter was referred to SVB (Special Valuation Branch) for enquiry. Subsequent to the enquiry, the proper officer found that the valuation is proper and no value addition is required in respect of provisionally assessed bills of entry. The present matter relates to refund of EDD deposited by them. During arguments, learned Advocate mentions that out of the refund claim filed by them, an amount of Rs. 42,07,595/- has been rejected on the ground of limitation, an amount of Rs. 57,56,285/- was sanctioned but credited to Consume Welfare Fund on the ground of unjust enrichment and an amount of Rs. 2,81,757/- has been rejected on account of not being substantiated by them. He is before this Tribunal for consideration of first two amounts (i.e. Refund of Rs. 42,04,595/- & Rs. 57,56,285/-) and accept rejection of refund of i.e. Rs. 2,81,757/- as he has nothing to plead.

2. Learned Advocate takes us to the decision of Hon'ble High Court of Gujarat in the case of Commissioner of Customs Ahmedabad Vs. Chaina Steel Corporation India Pvt Ltd. reported in 2025 (6) TMI 1195- Gujarat High Court and also to the decision of Hon'ble Delhi High Court in the case of M/s. Sentec India Company Private Limited Vs. Assistant Commissioner of Customs, Delhi & Ors. reported in 2025 (3) TMI 75- Delhi High Court. His main arguments are that as far as deposit is concerned, no bar of unjust enrichment can apply as per the ratio of the decision of Hon'ble Gujarat High Court and also since the refund arose because of deposit having been made, even a sum of Rs. 42,07,595 which is stated to be barred by limitation cannot be show as deposited amount can always be taken back by the person who deposited since the same is not in the nature of tax. And therefore, stating it to be barred by limitation as no refund application filed is incorrect as no formal application is required to be made in case of deposit and also a simple letter given for refund is sufficient to allow the refund of deposit. It is therefore, his plea that on both these counts, the refund needs to be allowed.

3. Learned AR, on the other hand agrees with principles decided by Hon'ble Gujarat High Court in the case of China Steel Corporation India Ltd (cited Supra) which is on the point of deposit, as well as, of the decision of Hon'ble Delhi High Court in the case of Sentec India Company Private Limited (cited supra).

4. We have examined the issue. We find that since what was sought was in the nature of refund of Extra duty deposit made during course of SVB investigation. The same deserves to be given back to the party without any consequences of unjust enrichment or time limitation in this particular instance. In view of the foregoing, we allow the appeal of the party for granting the refund rejected on the ground of time bar and also of the one sanctioned

but credited to consumer welfare fund on account of unjust enrichment. Appeal is allowed to the extent indicated above and the order of the lower authority is reversed to the above extent.

5. Appeal allowed.

(Dictated and pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Raksha