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

REGIONAL BENCH- COURT NO. 02

Customs Appeal No. 10848 of 2021
[Arising out Of OIA-MUN-CUSTM-000-APP-27-21-22 Dated- 13/05/2021 passed by the Commissioner of CUSTOMS-MUNDRA]

HINDALCO INDUSTRIES LIMITED .....**Appellant**
Unit Birla Copper Po Dahej
Bharuch, Gujarat

VERSUS

C.C.-MUNDRA .....**Respondent**
Office of the Principal Commissionerate of Customs,
Port User Buld. Custom House Mundra, Mundra
Kutch, Gujarat-370421

APPEARANCE:
Shri. Vinay Kansara, Advocate for the Appellant
Shri. Himanshu Nachane, Superintendent (AR) for the Respondent

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

Final Order No. 10720/2025

DATE OF HEARING:10.09.2025
DATE OF DECISION:10.09.2025

SOMESH ARORA

1. Vide letter dated 29.06.2017 the appellant applied to Joint DGFT for issuance of Export Obligation Discharge Certificate (EODC) by enclosing various supporting document. On 28.09.2017 Customs department issued

them a show cause notice for demanding duty under the relevant export Scheme which was Advance Authorization Scheme for demand of duty as well as imposition of penalty etc. The party had duly informed the department vide its letter dated 31.07.2017 about pending consideration of EODC by DGFT office. Still the department issued a show cause notice on 28.09.2017. In response to the show cause notice vide its reply dated 13.10.2017, the appellant again informed the department about the pending EODC certificate of theirs with the Jt. DGFT. The show cause notice was finally adjudicated vide Order-In-Original dated 29.01.2020 and date of issue on 29.12.2020. The appellant were on production of EODC which was issued in the Year- 2019 allowed the benefit of demanding of duty as well as interest as the EODC had been produced, but still there were subjected to penalty of Rs. 5,000/- under section 117 of the Customs Act, 1962 for late submission of EODC. The order was maintained even in appeal vide the impugned order in this case dated 13.05.2021 and the appeal was rejected holding that penalty under Section 117 is proper as EODC was submitted late.

1.1 From the above factual narrative, the advocate for the appellant's pleads that penalty under Section 117 should not have been imposed on them as there were no fault of theirs. On being asked AR reiterated finding of order and stated that late submission of EODC because of which the penalty was imposed under Section 117 of the Customs Act, 1962 was sustainable.

2. This Court finds that the late submission of EODC which has been duly taken cognizance by both the lower authorities while dropping the demand as well as interest was because of no fault of the party which had applied for the same in the Year 2017 but Jt. DGFT granted the same after two years only.

2.1 In view of this stated position, the delay is clearly on account of of joint DGFT office and party cannot be penalised for this. In view of the above discussion, this Court is inclined to set aside the penalty under Section 117. Penalty of Rs. 5,000/- is set aside.

3. Appeal allowed.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Prachi