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

REGIONAL BENCH - COURT NO. 2

CUSTOMS Appeal No. 13031 of 2018-SM

[Arising out of Order-in-Appeal No AHD-CUSTM-000-APP-067-18-19 dated 09.07.2018 passed by Commissioner of Customs (Appeals) Ahmedabad]

MA Trading Company .... **Appellant**
F/60, 1st Floor, Rudrakksh -2, Phase III. GIDC Vatva
Ahmedabad

VERSUS

Commissioner of Customs, Ahmedabad .... **Respondent**
Custom House, First Floor,
Old High Court Road, Navrangpura,
Ahmedabad, Gujarat -380009

APPEARANCE :

Shri Anil Gidwani, Advocate for the Appellant
Shri Aakash Singh, Superintendent (AR) for the Revenue.

CORAM:

HON'BLE DR. AJAYA KRISHNA VISHVESHA, MEMBER (JUDICIAL)

DATE OF HEARING : 08.10.2025
DATE OF DECISION: 06.11.2025

FINAL ORDER NO. 11018/2025

DR. AJAYA KRISHNA VISHVESHA :

This appeal is directed against the impugned Order-in-Appeal dated 09.07.2018 passed by Commissioner of Customs (Appeals), Ahmedabad through which he rejected the appeal and upheld the Order-in-Original dated 10.05.2017 passed by Additional Commissioner of Customs, Ahmedabad.

2. The facts of the case in brief are that the appellant filed Bill of Entry No. 8574436 dated 16.02.2017 for import of 'Stainless Steel Cold Rolled Coils Grade-201' classified under CTH 72209090. As per the Ministry of Steel Order SO 2061(E) dated 10.6.2016, amended vide Order SO. 2903(E)

dated 09.09.2016 and SO. 3649(E) 06.12.2016, the goods imported under above said Bill of Entry attract the provisions of the said Stainless Steel Products (Quality Control Order), 2016 and would require certification of Bureau of Indian Standards.

2.1 As per Section 1(1) of the Steel Order SO. 2061(E) dated 10.06.2016, the said order was to be called as the Stainless-Steel Products (Quality Control Order), 2016 and as per Section 1(2), the said order was to come into force after three months from the date of publication in the official Gazette. However, the said order was amended vide Order SO. 2903(E) dated 09.09.2016 and time limit for its coming into force was now changed to 180 days. The said order was again amended vide SO. 3649(E) dated 06.12.2016 and the time limit of its coming into force was revised to 242 days. In view of the said amendments, the said order came into force with effect from 07.02.2017. Accordingly, imports on or after the said date of 07.02.2017 would require certification of Bureau of Indian Standards.

2.2 In view of this, a query was raised for production of certification of Bureau of Indian Standards. The said importer, vide letter dated 15.04.2017 submitted that the market price of the imported goods was decreasing by each passing day and they have to incur charges on the storage and Interest on their Investment. They requested to allow first check examination in the matter and also requested to clear the consignment under proper adjudication proceedings and they didn't want any SCN or personal hearing in the matter. The first check examination was conducted and the examination report confirmed the chemical composition mentioned in the Mill Test Certificate of the supplier. The first check examination report also confirmed the description of the goods mentioned in the import documents such as invoice, packing list etc.

The Department was of the view that the goods mentioned above were to be treated as prohibited goods in terms of Section 3 of the Steel Order SO. 2061(E) dated 10.06.2016 which states that "No person shall by himself or through any person on his behalf manufacture or store for sale, sell or distribute any stainless steel product specified in the schedule, which do not conform to the specified standards and do not bear Standard Mark of the Bureau of Indian Standards on obtaining certification marks license: provided that nothing in this order shall apply in relation to export of stainless steel products required for export, which conform to any other specification required by the foreign buyer". In these circumstances, the imported goods were held liable to confiscation under Section 111(d) of the Customs Act, 1962. Further, since the importer was engaged in the said act of violation, he was held liable to penalty under Section 112(a) of Customs Act, 1962.

2.3 The appellant requested for release of the goods by taking a lenient view but the Adjudicating Authority vide order dated 10.05.2017 ordered for confiscation of the imported goods under Section 111(d) of the Customs Act, 1962 with an option given to the appellant to redeem the goods of payment of fine of Rs. 8,43,000/- under Section 125 of the Customs Act, 1962 besides imposition of penalty of Rs. 4,45,000/- on the appellant company under Section 112(a) of the Customs Act, 1962.

3. Being aggrieved by the Order-in-Original dated 10.05.2017 the appellant filed appeal before Commissioner of Customs (Appeals), Ahmedabad who upheld the Order-in-Original. Feeling aggrieved from the impugned order dated 09.07.2018 passed by learned Commissioner (Appeals), the present appeal has been filed before this Tribunal.

4. The learned Counsel for the appellant submitted that the learned Commissioner (Appeals) has not considered any of the submissions and supporting documents submitted by the appellant which clearly established that the appellant was not required to conform to the requirements of Standing Order in respect of the imports made in the present case and has proceeded to arbitrarily uphold the impugned Order-in-Original without going into the merits of the case and as such the Order-in-Appeal passed by learned Commissioner (Appeals) upholding the Order-in-Original issued by the Adjudicating Authority is required to be set-aside. The main argument of the learned Counsel for the appellant is that the shipment of the goods took place on 27.01.2017 whereas the Bill of Entry No. 8574436 dated 16.02.2017 was filed in respect of the imported Stainless Steel Rolled Coils Grade-201 on 16.02.2017. The argument of the learned Counsel for the appellant is that, on the date when the shipment of the goods took place, the Stainless Steel Products (Quality Control) (Amendment) Order, 2016 has not come into force. The provisions of Quality Control Order, 2016 came into force from 07.02.2016. Therefore, in view of the para 2.17 of the Foreign Trade Policy 2015-2020, the date of import shall be reckoned as the date of shipment/ dispatch of goods. The Bill of lading contains the date of January 2017 when the Stainless Steel Products (Quality Control Order) 2016 was not in force. Therefore, in these circumstances, the appellant was not duty bound to affix BIS mark on the Stainless Steel imported by them.

5. On the other hand the learned AR appearing for the Revenue reiterates the findings of the impugned order.

6. I agree with the contention of the learned Counsel for the appellant and I am of the view that the submission of AR that "the appellant was having the full knowledge regarding provisions of Stainless Steel Products

(Quality Control Order), 2016 at the time of shipment/ dispatch of the goods from the supplier country and therefore, they were duty bound to affix the BIS mark on the Stainless Steel" does not seem to have much force.

7. It is pertinent to note here that in **Metro Bright Bar India Pvt. Limited** vs. **Commissioner** – 2020 (373) ELT 142 (Tri.), CESTAT Ahmedabad has held that the Stainless Steel Products (Quality Control Order) 2016 come into force on 07.02.2017. This order was not in force in the month of January, 2017, when the goods in question were shipped. Therefore, the appellant was not required to affix BIS mark on the product imported by them.

8. In view of the above discussion, I am of the view that the impugned order passed by learned Commissioner (Appeals) Customs, Ahmedabad is not sustainable and liable to be set-aside. Consequently, the appeal is allowed and the impugned order is set-aside.

(Order pronounced in the open court 06.11.2025*)*

(Dr. Ajaya Krishna Vishvesha)
Member (Judicial)

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