

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

REGIONAL BENCH- COURT NO.1

Customs Appeal No. 10182 of 2024

(Arising out of MUN-CUSTM-000-APP-45-47-23-24 dated 04.08.2023 passed by Addl. Commissioner of Customs, Mundra)

Rishabh Salvage Energy Pvt Ltd.

...Appellant

Plot No. 147 Ward 7/A, Tenelant-3, AUM Aesidency-2
Gandhidham, Kachchh-Gujarat-370201

VERSUS

C.C. – Mundra

...Respondent

Office of the Principal Commissionerate
Of Customs, Port User Building, Custom
House, Mundra, Kutch, Gujarat-370421

WITH

Customs Appeal No. 10183 of 2024

(Arising out of MUN-CUSTM-000-APP-45-47-23-24 dated 04.08.2023 passed by Addl. Commissioner of Customs, Mundra)

Shri Inderjit Singh Minhas

...Appellant

Director, M/s Rishabh Salvage Energy Pvt Ltd.
Plot No. 147 Ward 7/A, Tenelant-3, AUM Aesidency-2
Gandhidham, Kachchh-Gujarat-370201

VERSUS

C.C. – Mundra

...Respondent

Office of the Principal Commissionerate
Of Customs, Port User Building, Custom
House, Mundra, Kutch, Gujarat-370421

AND

Customs Appeal No. 10552 of 2024

(Arising out of MUN-CUSTM-000-APP-45-47-23-24 dated 04.08.2023 passed by Addl. Commissioner of Customs, Mundra)

Soham Logistics Pvt Ltd.

...Appellant

111 Ratnakala Arcade GAPL Shakti Nagar
Mundra, Kachchh-Gujarat-370421

VERSUS

C.C. – Mundra

...Respondent

Office of the Principal Commissionerate
Of Customs, Port User Building, Custom
House, Mundra, Kutch, Gujarat-370421

APPEARANCE:

Shri Vikas Mehta, Consultant appeared for the appellant

Shri P Ganesan, Authorised Representative appeared for the Respondent

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

FINAL ORDER NO. 10101-10103 /2026

DATE OF HEARING: 16.02.2026
DATE OF DECISION: 18.02.2026

SOMESH ARORA:

The underlying facts are as follows:

Sl. No.	Appeal No.	Appellant	Duty/Penalty
1.	C/10182/2024	M/s Rishabh Slavage Energy Pvt. Ltd.	Duty Rs. 81,918/- (u/s 28AAA of CA) Penalty Rs. 2,91,550/- (u/s 114(iii) and 114 AA (ibid)
2.	C/10183/2024	Shri Inderjit Singh Minhas	Penalty Rs. 2,91,550/- (u/s 114(iii) and 114 AA (ibid)
3.	C/10552/2024	M/s Soham Logistics Pvt Ltd. (Custom Broker)	Penalty Rs. 2,91,550/- (u/s 114(iii) and 114 AA (ibid)

- DRI issued SCN dated 02.07.2020 to M/s. Rishabh under Section 28AAA of Customs Act, 1962 in relation to 02 Focus Market Scheme (FPS) Scrips issued to them by DGFT post-export of different varieties of salt under shipping bills filed by them between 23.08.2012 to 09.12.2023 with Custom House, Mundra.
- According to DRI, M/s. Rishabh had mis-classified the goods under 2501 00 90 meant for industrial salt (and not the variety of salt exported by them) to earn benefit of credit @ 2% under FPS. It was alleged that correct classification of goods is 2501 0010 (as per scheme contained in the table on page 57 of appeal memo) for which no such benefit was available.
- By relying upon DGFT Office Memorandum dated 26.12.2017 (Page 81) and Notification dated 2.7.1977 (page 83), DRI alleged that goods exported by M/s. Rishabh was common salt falling under CTH 2501 0010 and not industrial salt falling under CTH 2501 0090.
- The appellant in his statement dated 19.11.2015 (pager 71-72) inter alia stated that according to them, salt which is not fit for human consumption is industrial salt; that it is used for cattle feed, textile and fisheries, that salt exported by them was having added anti-caking agent containing silica and iodine, that prior to loading, it was examined by Department of Salt and Export worthiness Certificate was duly issued.
- That the appellant had categorically contended before lower authorities that the appellant had obtained the licences from DGFT after supplying copy of all the shipping bills containing description and classification made by them and the FPS Scrips issued by DGFT based on this application were never cancelled by DGFT and the same hold the field even today.
- However, the lower authorities have ignored the contention made by the appellants and have passed and sustained the impugned notice. Agggrieved by the decisions, parties have filed these appeals.
- The appellant drew attention of this Court to Circular No. 334/1/2012-
- TRU dated 01.06.2012 (annexed herewith), wherein, it is specifically clarified that:
"112 Recovery of duty in case of instrument issued under Foreign Trade (Development and Regulation) Act
Section 28AAA has been inserted in the Customs Act through Section 122 of the Finance Act, 2012 to provide for recovery of duties from the person to whom an instrument such as credit duty scrips was issued where such instrument was obtained by means of collusion or willful misstatement or suppression of facts. Since the provision now has the force of law, action for recovery of duty can be initiated under the said provision. Field formations are advised to issue demands as soon as DGFT/concerned regional Authority initiates action for cancellation of an instrument but the matter may be decided only after the instrument has been cancelled by DGFT

- In this case, it is a matter of record that DGFT has not initiated any action for cancellation of instrument and hence, there is no question of cancellation of the same. Hence, the action taken by lower authorities in issuing the demand show cause notice and adjudication of the same is pre mature and contrary to Board's Circular.
- It is also being made clear that the issue of classification was given up before the Division Bench and on such basis only the matter is transferred to Single Member.

2. Learned AR also seeks to rely on the judgment in the decision of 2024 (4) TMI 877 Cestat-Ahmedabad in the matter of Commissioner of Customs Mumbai-I vs Adani Ports Limited to emphasize the point that till the DEPB scrips are not got cancelled by the department nothing justifies the demand of duty for confiscation of goods or imposition of penalties.

3. He also points out that the scrips were obtained from the office of DGFT after supplying copies of all cheques and shipping containing bills continue product description and classification. Therefore, department cannot re-adjudge the classification and sit over the decision of DGFT authorities as given to him. The AR seeks to rely on the decision of Munjal Shova Limited vs CCE & ST-Delhi-IV as reported in 2022 (382) ELT 145 (SC) to submit that penalty was imposable after the DEPB licences/ scrips are questionable.

4. Decisions of both sides have been considered as well as the submissions made including the findings of the lower authorities. The decision of Munjal Shova Limited (cited supra) was in relation to the DEPB script which were proved to be fraudulent and forged. Same is not the case in the instant matter and department has not been able to show that the scrips were got cancelled from DGFT authorities. Therefore, in view of decision cited by the Consultant of CC-Mundra vs Adani Ports Limited 2024 (4) TMI 874 as well as Boards Instructions quoted which are relevant in the instant case, the penalties, Redemption Fine cannot be imposed nor duty cannot be demanded unless the scrips have been got cancelled by the department. Same is not in any way on record. Appeals are therefore allowable. Redemption fine, personal penalty as well as duty demand is set aside with consequential relief to all parties. Appeals allowed.

(Order pronounced in the open court on 18.02.2026)

(SOMESH ARORA)
MEMBER (JUDICIAL)