

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

REGIONAL BENCH- COURT NO.1

**Customs Appeal No. 10374 of 2020**

(Arising out of OIA No. KDL-CUSTOM-000-APP-82-86-19-20 dated 03.01.2020 passed by  
Commissioner (Appeals), Ahmedabad)

**Sanghi Industries Ltd.**  
P.O. Sanghipuram, Taluka Abdasa  
Kutch, Gujarat

**...Appellant**

*VERSUS*

**C.C. Kandla**  
Custom House,  
Near Balaji Temple, Kandla

**...Respondent**

**WITH**

- (i) Customs Appeal No. 10375/2020 (Sanghi Industries Ltd.);**  
**(ii) Customs Appeal No. 10376/2020 (Sanghi Industries Ltd.);**  
**(iii) Customs Appeal No. 10377/2020 (Sanghi Industries Ltd.);**  
**(iv) Customs Appeal No. 10378/2020 (Sanghi Industries Ltd.);**

(Arising out of OIA No. KDL-CUSTOM-000-APP-82-86-19-20 dated 03.01.2020 passed by  
Commissioner (Appeals), Ahmedabad)

**APPEARANCE:**

Ms. Surbhi Chandani with Manish Jain, Advocates appeared for the appellant  
Smt. Sunita Menon, Authorised Representative appeared for the Respondent

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

**FINAL ORDER NO. 10132-10136 /2026**

DATE OF HEARING: 24.02.2026  
DATE OF DECISION: 25.02.2026

**SOMESH ARORA:**

M/s. Sanghi Industries Limited (hereinafter referred to as "the Appellants") is one of the leading cement and clinker manufacturing companies in India. The coal/coke imported by the Appellants is used in the factory and in the kiln, for manufacture of cement.

1.1 The present issue concerns the Refund of the Customs Duty paid by the Appellants on the import of coal under various Bills of entry. The Appellants had entered into long term contracts for purchase of coal-Coke on a CIF (Cost, Insurance and Freight) basis from foreign exporters. During the course of such imports, the Appellants had filed various Bills of Entry for assessment and payment of customs duty.

1.2 At the time of import, the above-mentioned Bills of Entry were provisionally assessed for want of original documents along with test results of the imported goods. The customs duty on the same was paid

by the Appellants. In view of the above, the Appellants submitted various refund applications for different periods.

1.3 The Refund Applications filed by the Appellants for various Bills of Entry across different periods were rejected by the adjudicating authorities. These rejections were made through multiple orders, all of which relied upon the Order-In-Appeal bearing No. KDL-CUSTM-000-APP-42 to 44/17-18 dated 30.01.2018. The details of the refund amounts and the corresponding orders rejecting those claims are provided in the table below.

| Sr. No. | Refund Amount  | Letter/ Order-In-Original Rejecting Refund                          |
|---------|----------------|---------------------------------------------------------------------|
| 1       | Rs. 4,32,922/- | F.No. VIII/20-46/Refund/Cus(T)/2013-14/539 dated 26.03.2019         |
| 2       | Rs. 33,059/-   | OIO-KDL/08/BB/AC/REF/BHUJ/2018-19 dated 28.03.2019                  |
| 3       | Rs. 7,538/-    | Letter No. F.No. VIII/20-01/Ref/Cus(T)/2015-16/540 dated 26.03.2019 |
| 4       | Rs. 70,936/-   | OIO-KDL/09/BB/AC/REF/BHUJ/2018-19 dated 28.03.2019                  |
| 5       | Rs. 68,125/-   | Letter No. F.No. VIII/20-01/Ref/Cus(T)/2013-14/541 dated 26.03.2019 |

1.4 The Ld. Commissioner of Customs (Appeals) vide impugned Order-In-Appeal No. KDL-CUSTM-000-APP-82 to 86-19-20 dated 03.01.2020 rejected the appeal. Being aggrieved by the aforesaid impugned order, the Appellant is filing the present appeal, inter alia, on the following grounds which are without prejudice to each other.

1.5 The issue for consideration in this matter is whether transaction value will get varied on receipt of discharge money from the foreign supplier and whether as well as by the department, the same is includible in transaction value. Since the bulk cargo was involved, the agreement inter alia, provided in clause 15.3 which has been given as specimen as follows:

“In the event that the Buyer fails to maintain the discharge rate, then the Buyer shall pay demurrage to the Seller at the rate specified in the Vessel nomination on pro-rata basis for all time used in excess of Laytime allowed. If unloading is completed faster than the laytime allowed, Seller shall pay despatch to Buyer at the rate that is 50% of the rate specified in the Vessel nomination on pro-rata basis, for all Laytime saved.”

1.6 It is thus clear that clause provided in order to avoid demurrage, the payment by the buyer or by the seller of what has been termed as “Discharge Money”. In the instant cases, refunds were filed on the basis of that discharge money due to quick discharge at the port, was received

by them and therefore, amount of duty paid initially was required to be refunded to them. the Learned Advocate seeks to rely on the decision in their own case by a Division Bench of CESTAT Ahmedabad only vide Final Order No. 11483-11485/2024 dated 03.07.2024. In the aforesaid decision para 5 which concludes discussion of various case law is relevant and is reproduced below:-

“5. In view of above judgments the issue is no longer res integra. Accordingly, the dispatch money received by appellant from the foreign supplier is clearly not includable in the transaction value. Hence, demand on this count is not sustainable. Accordingly, the impugned order is set aside and appeals are allowed.”

2. Learned Advocate seeks this court to follow the decision of the Division Bench as the precedent.

3. Learned Authorised Representative confronted with the decision in the own case of the appellant, reiterates the findings in the impugned order.

4. This court has considered the rival submissions. It finds that in the agreement the Indian importer i.e. the appellants, as well as the supplier, to avoid demurrage with the shipping lines or the customs authority, a clause was incorporated to provide for dispatch money, either way as a penalty to the buyers if the delay in discharge happens or as an incentive to the buyer if cargo is efficiently discharged. The terms are commercial terms in international trade and cannot be said to be unusual. Even the rate provided is reasonable which are the two considerations which are weighing in the mind of this court, as under the guise of an incentive which is not in normal course of trade, undervaluation by an importer cannot be allowed to be resorted to. Therefore, considering the quantum of incentive and that it was to avoid demurrages, which was being given, as also the aforesaid decision (cited supra), which is in favour of the party in their own case, this court is inclined to provide the relief. Appeals are allowed with consequential relief.

(Order pronounced in the open court on 25.02.2026)

**(SOMESH ARORA)**  
**MEMBER (JUDICIAL)**