CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 2625 of 2012

(Arising out of Order-in-Appeal No. 151/2012 dated 11.06.2012 passed by the Commissioner of Customs (Appeals), Cochin.)

M/s. Beepath Casting Pvt. Ltd.
VIII/715, G & H, NIDA,
Kanjikode,
Palakkad – 678 621.

Appellant(s)

VERSUS

The Commissioner of Customs (Appeals)
Customs House,
Cochin – 682 009.

Respondent(s)

WITH

Customs Appeal No.2626 of 2012

(Arising out of Order-in-Appeal No.152/2012 dated 11.06.2012 passed by the Commissioner of Customs (Appeals), Cochin.)

M/s. Beepath Casting Pvt. Ltd.
VIII/715, G & H, NIDA,
Kanjikode,
Palakkad – 678 621.

Appellant(s)

VERSUS

The Commissioner of Customs (Appeals)
Customs House,
Cochin – 682 009.

Respondent(s)

APPEARANCE:

None for the Appellant

Shri K. A. Jathin, Dy. Commissioner (AR) for the Respondent

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

FINAL ORDER NO. 21351 - 21352 /2024

DATE OF HEARING: 10.10.2024
DATE OF DECISION: 10.10.2024

PER: D.M. MISRA

None present for the appellant.

2. Heard learned Authorized Representative (AR) for the Revenue. These appeals were listed on 28.07.2023, 28.08.2023, 15.09.2023, 21.09.2023, 20.10.2023, 09.11.2023, 05.12.2023, 22.01.2024, 12.02.2024, 15.03.2024, 29.04.2024, 28.06.2024, 30.07.2024, 27.08.2024 and today i.e., 10.10.2024. Learned AR submits that further adjournment will not serve any purpose. Consequently, the appeals are taken up for hearing and disposal.

3. The facts common in both these appeals are that the appellant had filed Bill of Entry No.261818 dated 19.01.2010 and Bill of Entry No.255504 dated 08.10.2009 for import of 'Heavy Melting Steel Scrap' (HMS) supplied by M/s. Atlas Trading Co. (LLC), UAE and M/s. Al Ahmadi General Trading (LLC), UAE. During the course of first check, it was noticed that there was excess/short-receipt and also the quantity declared comprising of HMS scrap were actually 'channels of assorted length' of 115.260 MTs as against 112.950 MTs, thus there was excess quantity of 2.310 MTS in Appeal No. C/2625/2012; and in Appeal No. C/2626/2012, out of 189.800 MTs imported HMS, only 58,910 kg. was HMS scrap and balance 1,30,890 kg. were 'channels of assorted length and size'. Show-cause notices were issued for revising the classification of 82 MTs of assorted iron rods under CTH 7215 9090 and the value declared of these goods proposed to be enhanced at Rs.20/- per kg and goods were proposed to be confiscated and imposition of penalty under Section 112(a) of the Customs Act, 1962. On adjudication,

demands were confirmed along with confiscation of goods and imposition of penalty. Aggrieved by these orders, appellant preferred appeals before the learned Commissioner (A), who upheld re-classification of the goods and valuation but set aside confiscation of goods and imposition of penalty. Hence, these present appeals.

4. Learned Authorized Representative (AR) for the Revenue submitted that the issue is addressed by this Tribunal in the case of **Minar Alloys and Forgings Ltd. vide Interim Order No.5/2024 dated 27.06.2024** whereby the Majority opinion held as follows:

> "23. On careful analysis of the observation of the learned Member(Judicial) as well as that of learned Member(Technical), I find that there is no difference in finding on the issue of classification of the iron rods and channels to be under CTH 7215 9090 and CTH 7308 9010 of the Customs Tariff Act respectively. Learned Member(Judicial) has laid emphasis that the mutilation as per Section 24 of the Customs Act, 1962 should have been allowed for conversion of said iron rods and channels into scrap in the event if such option is not availed / exercised by the appellant, duty can be demanded for goods as iron rods under CTH 7215 9090 or channels under CTH 7308 9010. In the present circumstances, since no such request for mutilation was advanced nor any direction for such mutilation was issued initially, the classification of the iron rods and channels would be under CTH 7215 9090 and CTH 7308 9010, respectively.
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> 24. On the issue of determination of value of the goods is concerned, it is noticed that initially for the entire 212.13 MTs of "Heavy Melting Steel scrap" imported, the value was declared as Rs.36,01,729/-. After change in the classification, the adjudicating authority has applied contemporaneous import price of Rs.20/- per kg. for 22.920 MTs of channels and 47.200 MTs of iron rods against the imported scrap price of Rs.16.97 per kg. The appellant claimed that the contemporaneous

import value should be adopted as Rs.19/- per kg. However, no evidence has been placed by the appellant in support of their claim. On going through the records, I do not find any discrepancy in the said enhancement of value of the iron rods and channels based on contemporaneous import, once the classification of the scrap has been changed with regard to total quantity of 70.12 MTs. of channels and iron rods. Therefore, I agree with the findings of the learned Member(Technical) on the issue of determination of value based on the contemporaneous import price of iron rods and channels.

25. In the result, in my opinion,

(i) the imported iron rods and channels are classifiable under CTH 7215 9090 and CTH 7308 9010, respectively.

(ii) On the issue of valuation of iron rods and channels, I agree with the view of the learned Member(Technical)."

5. Following the aforesaid judgment, the imported 'channels of assorted length and size' are classifiable under CTH 7308 9010; and 'assorted iron rods' are classifiable under CTH 7215 9090 and uphold the valuation. Consequently, we do not see any reason to deviate from the findings of the learned Commissioner (Appeals) in the impugned orders, hence, the same are upheld and appeals are dismissed.

(Operative portion of the order was pronounced
in open court on conclusion of hearing)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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