

CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
REGIONAL BENCH AT HYDERABADDivision Bench  
Court - I**APPEALS No. C/30821/2016 & C/30822/2016***(Arising out of **Order-in-Appeals** No. 56 & 57/2015-VCH, dated 17.03.2016  
passed by CCCE&ST (Appeals), Visakhapatnam)*

CCE, C&amp;ST, Visakhapatnam

..

APPELLANT

Vs

SOVA ISPAT ALLOYS LIMITED

..

RESPONDENT

**Appearance**

Shri Arun Kumar, Dy. Commissioner/AR for the Appellant.

Shri R. Muralidhar, Advocate for the Respondent.

**Coram:**

Hon'ble Mr. M.V. RAVINDRAN, MEMBER (JUDICIAL)

Hon'ble Mr. P.V. SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing: 20.12.2018  
Date of Decision: 20.12.2018**FINAL ORDER No. A/31613 - 31614/2018**

[Order per: Mr. M.V. Ravindran)

1. These two appeals are filed by Revenue against Order-in-Appeals  
No. 56 & 57/2015-VCH, dated 17.03.2016.

2. The relevant facts that arise for consideration, after filtering out unnecessary details are respondent herein imported Manganese Ore and the same was cleared by the assessing officers by provisionally assessing the duty liability. During the course of finalization of bills of entry, the assessing officer observing that the goods imported by the respondent are not ores but concentrates, applying the Chapter Notes of Chapter 26 of Central Excise Tariff Act, came to a conclusion that there is short payment of duty by holding that the goods imported by the respondent are not ores but concentrates, provisional assessments were finalised confirming a demand of differential duties. Aggrieved by such an order, an appeal was preferred to the first appellate authority. The first appellate authority after following due process of law, set aside the Order-in-Original on the ground that there is no evidence on record to hold that the respondent had imported concentrates and not Ores. Revenue is in appeal against this order.

3. Ld. DR submits that the definition of 'Concentrate' clearly covers the issue in favor of Revenue and by applying the Chapter Notes of Chapter 26, it would be required that the goods imported be covered as Concentrates and not Ores.

4. Ld. Counsel appearing for respondent submits that similar issue came up before the Tribunal in various cases of Jagadamba Iron & Steel

Pvt. Ltd. and others and this Bench by Final Order No. A/31006-31046/2017, dated 22.06.2017 has specifically held that the goods imported are Ores and are eligible for exemption under notification No. 4/2006-CE, dt. 01.03.2006. He produces copy of the said final order dt. 22.06.2017.

5. On consideration of the submissions made by both sides and perusal of records, we find that the issue that falls for our consideration is whether the goods imported by the respondent needs to be classified as Manganese Ore or Manganese Concentrate and depending upon such classification it has to be decided whether the appellants will be eligible for the benefit of Notification No. 4/2006-CE as substituted by Notification No. 12/2002. Essentially, the notifications state for exemption of additional duty of customs (popularly called as CVD).

6. We find that the final order dated 22.06.2017 (wherein one of us Mr. M.V. Ravindran was a Member), the Bench went into the details of the entire issue and held that in the absence of any evidence to show that the goods imported were concentrates, demands cannot be sustained. In the cases in hand, identical issue falls for our consideration and we find that there is no evidence in the form of any test report of the Dy. Chief Chemist or any person to even remotely indicate that the goods imported by the respondent herein are not Ores but Concentrates. The ratio of the decision of the Tribunal dated 22.06.2017 would squarely apply in the cases in hand.

Following the same, we hold that the impugned orders are correct and legal and does not require any interference.

7. Appeals stand rejected.

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

(P.VENKATA SUBBA RAO)  
MEMBER (TECHNICAL)

(M.V. RAVINDRAN)  
MEMBER (JUDICIAL)

vrg