CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD
Division Bench
Court – I

Sl. No.	Appl./Appeal No.	Appellant (s)	Respondent (s)	Impugned Order
1.	C/ROA/30133/2017 C/MISC/30824/2017 C/23527/2014	CC, Vijayawada	M/s 3F Industries Limited	OIA Nos. 16 to 18/2014 (G) Cus dt. 13.08.2014.
2.	C/MISC/30770/2018 C/30165/2017	CC, Nellore	-do-	-do-
3.	C/MISC/30771/2018 C/30166/2017	CC, Nellore	-do-	-do-

Appearance
Shri Guna Ranjan, Superintendent (AR) for the Revenue.
Shri Ch. V.S. Prasannanjaneyulu, Authorised Signatory for the Respondent.

Coram:
Hon'ble Mr. M.V. RAVINDRAN, MEMBER (JUDICIAL)
Hon'ble Mr. P. VENKATA SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing: 18/02/2019
Date of Decision: 18/02/2019

MISC./FINAL ORDER No. M/30100-30103/2019 ;

A/30219-30221/2019

[Order per: M.V. Ravindran]

All these applications are filed by the Revenue for restoration of appeal which was dismissed by this bench for non-filing of two more appeals.

2. After hearing both sides and perusal of records, we find that the argument put forth by the Revenue is that two other appeals required to be filed may have to be considered as supplementary

appeals. It is also the submission that the first appeal which was filed and taken up for disposal was within time.

3. We find that the appeals filed by the Revenue were dismissed on technical ground by this bench considered holistically before disposing of the appeals. We find that the Revenue has made out a case for restoration of appeal accordingly, we recall our Final Order dated 22.08.2016 and restore the appeal to its original number.

4. At this juncture, Learned Departmental Representative submits that the issue is regarding the customs duty leviable on the goods imported whether should be on the shore quantity or ullage quantity.

5. Learned Authorized Representative for the respondent herein submits that the issue is now decided by the Supreme Court in the case of *Mangalore Refinery & Petrochemicals Ltd.,* [2015 (323) ELT 423] and followed by this bench in the case of *HPCL Vs. CC, Visakhapatnam* in Final Order No. A/31624/2018. It is his submission that the same view has been expressed by the Hon'ble High Court of Andhra Pradesh & Telangana in the case of *M/s Asia Pacific Commodities Ltd*. He produces the copy of the decisions.

6. On perusal of records, we do find that the issue involved in this case is regarding customs duty to be charged on whether the shore quantity or ullage quantity of the imported goods. We find that the issue is no more res integra as Apex Court in the case of

Mangalore Refinery & Petrochemicals Ltd., (supra) has already decided the issue laying down the law that customs duty should be paid on the shore quantity of the imported goods accordingly, we find that the First Appellate Authority was correct in holding so, accordingly we uphold the impugned order and reject the appeal/s filed by the Revenue against the Order-in-Appeal Nos. 16 to 18/2014 (G) Cus dated 13.08.2014.

7. Miscellaneous applications also stand disposed of.

(Order pronounced & dictated in open court)

P. VENKATA SUBBA RAO	**M.V. RAVINDRAN**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

Lakshmi….