CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD

REGIONAL BENCH - COURT NO. – I

Customs Appeal No. 30352 of 2020
(Arising out of **Order-in-Appeal** No.VIZ-CUSTM-000-APP-019 to 021-19-20 dated 31.07.2019 passed by Commissioner of Central Tax & Customs (Appeals), Visakhapatnam)

M/s Rungta Mines Ltd., .. **APPELLANT**
Rungta House,
Chaibasa,
Jharkhand – 833 201.

VERSUS

Commissioner of Customs .. **RESPONDENT**
Visakhapatnam - Customs
4th Floor, Customs House,
Port Area, Visakhapatnam,
Andhra Pradesh – 530 035.

WITH

Customs Appeal No. 30353 of 2020
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VERSUS

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4th Floor, Customs House,
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AND

Customs Appeal No. 30354 of 2020
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Rungta House,
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VERSUS

Commissioner of Customs .. **RESPONDENT**
Visakhapatnam - Customs
4th Floor, Customs House,
Port Area, Visakhapatnam,
Andhra Pradesh – 530 035.

APPEARANCE:
Shri S.C. Choudhury, Advocate for the Appellant.
Shri Kakarala Prasanth Kumar, Authorized Representative for the Respondent.

CORAM: HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)

HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30495-30497/2026

Date of Hearing: 13.08.2026
Date of Decision: 03.09.2026

[ORDER PER: ANGAD PRASAD]

These three appeals have been filed by M/s Rungta Mines Ltd., (hereinafter referred to as appellant) against the impugned Order-in-Appeal dated 31.07.2019. Since the parties, impugned order and the issue involved in all the appeals are common, they are taken up together and disposed of by this common order.

2. The fact in brief is that the appellant exported consignments of Iron Ore Fines through Gangavaram Port under three Shipping Bills. The assessments were initially made provisional pending receipt of the test reports and final documents. Subsequently, the jurisdiction Assistant Commissioner finalized the provisional assessments on the basis of the chemical examination reports by treating the Fe content determined on Dry Metric Ton basis ("DMT") as the relevant Fe content percentage. As the Fe content so determined was above 58%, the goods were subjected to the corresponding higher rate of export duty.

3. The appellant challenged the final assessments before the Commissioner (Appeals), contending that the percentage of Fe content, for determining the applicable rate of export duty, was required to be calculated on Wet Metric Ton basis ("WMT"), namely, with reference to the total mass of the iron ore including moisture. According to the appellant, although the contractual price was determined on DMT basis, the same could not govern

the determination of Fe percentage for the purpose of classification and rate of duty.

4. The Commissioner (Appeals), did not examine the above contention on merits. He observed that, before finalization of the assessment, the appellant had accepted the proposed finalization and had also waived personal hearing. He further treated the plea raised in appeal as involving additional evidence and, relying upon Rule 5 of the Customs (Appeals) Rules, 1982, rejected all the three appeals. Hence, the present appeals.

5. Learned Counsel for the appellant submits that though no additional evidence was produced before the Commissioner (Appeals), the appellant had merely raised a legal ground regarding the correct method of determining the Fe content on the basis of the test reports already available on record. It is contended that Rule 5 of the Customs (Appeals) Rules, 1982, which regulates production of additional evidence, had no application to an additional ground of law. Reliance is placed upon judgment of the Hon'ble Supreme Court in Union of India Vs Gangadhar Narsingdas Aggarwal, 1997 (89) E.L.T. 19 (SC) and upon CBEC Circular No. 4/2012-Cus. dated 17.02.2012. It is submitted that the percentage of Fe content has to be determined with reference to the total mass of the iron ore as presented for export, including the moisture contained therein. Reliance is also placed upon:

i) Commissioner of Customs (port), Kolkata Vs Sesa Goa Ltd., 2014 (310) ELT 915 (Tri.-Kol.);

ii) General Nice Mineral Resources (I) Pvt Ltd., Vs Commissioner of Customs, Vijayawada, 2017 (352) ELT 94 (Tri.-Hyd.);

iii) V.M. Salgaokar and Brothers Pvt Ltd., Vs Asst. Commissioner of Customs (Export), 2023 (11) Centax 215 (Bom);

6. Learned Authorized Representative reiterates the impugned order and submits that the appellant had expressly accepted the proposed finalization of the assessments and waive personal hearing. Therefore, it was not open to the appellant to subsequently dispute the very basis on which the assessments were finalized.

7. Heard both sides and perused the records.

8. The principle question for consideration is whether the Commissioner (Appeals), was justified in rejecting the appeals without examining the legal ground raised by the appellant regarding determination of Fe content on WMT basis.

9. Rule 5 of the Customs(Appeals) Rules, 1982 deals with production of additional evidence before the Commissioner (Appeals). In the present case, the appellant did not seek to introduce any new test report or other factual evidence. Its contention was that the Fe percentage recorded in the test reports already forming part of the assessment record should be converted and considered on WMT basis for determining the appropriate tariff entry and rate of export duty. Such a contention constitutes a legal ground based on the existing record and cannot be equated with production of additional evidence.

10. Section 128A(2) of the Customs Act, 1962 specifically enables the Commissioner (Appeals), to permit an appellant to raise a ground not specified in the memorandum of appeal where the omission was not wilful or unreasonable. It is also settled that a pure question of law, which can be

determined on the basis of facts already available on record, may be raised at the appellate stage. Reference may be made to Jute Corporation of India Ltd., Vs CIT, 1991 (54) ELT 176 (SC) and National Thermal Power Co. Ltd., Vs CIT, 1998 (229) ITR 3 (SC).

11. The mere fact that the appellant had initially accepted the proposed manner of finalization or waived personal hearing would not preclude it from challenging the final assessment in the statutory appeal. There can be no estoppel against the correct application of a statutory provision. The assessments were appealable orders, and the appellant had availed the prescribed appellate remedy. The decision in ITC Ltd., Vs Commissioner of Central Excise, Kolkata-IV, 2019 (368) ELT 216 (SC) also recognises that an assessment must be challenged through the statutory appellate mechanism before consequential relief can be claimed. The appellant has followed that course in the present case.

12. On merits, the Hon'ble Supreme Court in the Gangadhar Narsingdas Aggarwal, supra, held that, after determining the actual quantity of iron, its percentage has to be worked out with reference to the total weight of the iron ore available at the relevant time, inclusive of moisture. If moisture is excluded while calculating the denominator, the Fe percentage would not represent the condition of the goods as presented for export.

13. The above principle was clarified and directed to be followed by the Board in Circular No. 4/2012-Cus. dated 17.02.2012. The Board clarified that, for the purpose of charging export duty, the assessment of iron ore for determination of Fe content shall be made on WMT basis and not on DMT basis. The subsequent decisions in V.M. Salgaokar and Brothers Pvt Ltd., supra, have also recognised the requirement of considering the Fe content

with reference to the goods in the condition in which they were presented for export.

14. The basis adopted for determining the transaction value under the commercial contract and the basis for determining the Fe percentage for classification and rate of duty operate in different fields. Merely because the contractual price is expressed by Dry Metric Ton (DMT), it does not necessarily follow that the Fe percentage for tariff purposes must also be taken on DMT basis. The applicable rate of duty has to be determined in accordance with the tariff notification, the governing statutory provisions and the binding judicial precedents. Nevertheless, the precise WMT Fe percentage, the applicable tariff entry and the consequential duty liability in each shipping bills require verification from the respective test reports, moisture content and other assessment records. Since neither the Adjudicating Authority nor the Commissioner (Appeals), has examined these aspects in the proper legal prospective, it would be appropriate to remand the matters for fresh consideration.

15. Accordingly, the common impugned order dated 31.07.2019 and the corresponding final assessment orders are set aside. The matters are remanded to the jurisdiction Adjudicating Authority with the following directions:

i) The Fe percentage shall be determined on WMT basis, taking into account the moisture content and the condition of the Iron Ore Fines as presented for export;

ii) The relevant test reports already available on record shall be considered, and the appellant shall be permitted to produce the connected contractual and assessments documents;

iii) The classification, applicable rate of export duty and transaction value shall be determined separately in accordance with law.

16. All contentions concerning the consequential calculation of value and duty are left open. The Adjudicating Authority shall complete the proceedings expeditiously, without being influence by the appellant's earlier letters accepting the proposed finalization.

17. The above appeals are, accordingly, allowed by way of remand, with consequential relief, if any, subject to the outcome of the fresh proceedings.

(Pronounced in the open court on 03.09.2026)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

Shirisha