IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA
REGIONAL BENCH – COURT NO. 2

Customs Appeal No. 150 of 2011

(Arising out of Order-in-Appeal No. KOL/CUS/CKP/226/2010 Dated 29.07.2010 passed by Commissioner of Customs (Appeals), Kolkata.)

Commr. of Customs (Port), Kolkata Commissionerate
(15/1, Strand Road, Kolkata – 700 001.)

...Appellant

VERSUS

M/s. Mahalaxmi & Co. Ltd.
(Industry House, 18th Floor, 10, Camac Street, Kol-700 017.)

...Respondent

APPERANCE :
Mr. Subrata Debnath, Authorized Representative for the appellant
Mr. Payal Bharwani, C.A. for the Respondent

CORAM:
HON'BLE MR. R. MURALIDHAR MEMBER (JUDICIAL)
HON'BLE MR. RAJEEV TANDON MEMBER (TECHNICAL)

FINAL ORDER No. 77193/2023

DATE OF HEARING : 25.09.2023
DATE OF DECISION : 25.09.2023

PER R. MURALIDHAR :

The Revenue has filed the Appeal, being aggrieved by the following decisions of the Commissioner (Appeals).

i) The Export Duty on Iron Ore fines is required to be calculated based on Dry Metric Tonne basis. As per Revenue the Export Duty is required to be calculated on Wet Metric Tonne basis.

ii) The Commissioner (Appeals) has held that for the value for payment of Export Duty, the exporter can be given the benefit of cum-duty. As per Revenue cum-duty benefit cannot be given for calculating the Export Duty.

2. After hearing both sides we observe that both these issues are no more *res integra*.

3. In respect of the Dry Metric Tonne to be adopted for payment of Export Duty on Iron Ore fines, this Bench vide Final Order Nos. 76227 and 76229 of 2023, dated 24.07.2023 has held that DMT has to be considered for the purpose of Export Duty.

4. In respect of cum-duty price, this Bench has decided the issue vide Final Order No. 76739 of 2023 dated 21.09.2023. In the case of Essel Mining and Industries, it is held that the cum-duty benefit cannot be given for arriving at the value for payment of the Export Duty.

5. Following these decisions, we hold as under:

a) The Revenue Appeal stands allowed in respect of their agitation against the cum-duty price. The impugned order is set aside to this extent.

b) The Revenue Appeal in respect of their agitation against adoption of DMT for quantification purpose of Export Duty, stands rejected. The impugned order is upheld to this extent.

6. The Appeal is disposed of thus.

Sd/-

(R. Muralidhar)
Member (Judicial)

Sd/-
(Rajeev Tandon)
Member (Technical)

Pinaki