IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 76073 of 2018

(Arising out of Order-in-Appeal No. 61/CUS/CCP-GST/2017 dated 28.12.2017 passed by the Commissioner (Appeals), G.S.T., C.X. and Customs, Central Revenue Building, Rajaswa Vihar, Bhubaneswar – 751 007, Odisha)

M/s. Narbheram Vishram **: Appellant**
A.T./P.O.: Barbil, Opp. Cinema Hall,
District: Keonjhar, Odisha – 758 035

VERSUS

Commissioner of C.G.S.T. and Central Excise and Customs **: Respondent**
Central Revenue Building, Rajaswa Vihar,
Bhubaneswar – 751 007, Odisha

APPEARANCE:

Shri Arvind Baheti, Chartered Accountant for the Appellant

Shri Subrata Debnath, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 76372 / 2024

DATE OF HEARING: 10.05.2024

DATE OF DECISION: 19.07.2024

ORDER:[PER SHRI K. ANPAZHAKAN]

M/s. Narbheram Vishram (hereinafter referred as to the "Appellant") is engaged in the export of Iron Ore fines. During the period 2007-08, the Appellant was awarded an export order of Iron Ore fines to China vide Contract no. KNR/VISA/07/0708 dated 01.10.2007 to supply 15,000 MT of Iron Ore fines (+/- 10% at Buyer's option). The contract was made on FOB basis, considering "Fe" content at 63.5% and moisture content as 9%.

2. As per the aforementioned contract, the Appellant filed two Shipping bills bearing nos. 777/IOF/07-08 and 778/IOF/07-08, both dated 26.11.2007 for export of 16,000 MT of iron ore. The shipping bills were provisionally assessed and the Appellant paid export duty at the rate of Rs. 300/- PMT along with applicable cess as per the Customs Tariff Act, considering the "Fe" content of 63.22% on Dry Metric Ton (DMT) basis as per the load port analysis report and that the contractual agreement was also on DMT basis.

2.1 Thereafter, the appellant filed all the relevant documents before the Deputy Commissioner, Customs Division, Paradeep for finalisation of the shipping bills on the baisis of the decision of the Hon'ble Supreme Court in the case of *Union of India v. Gangadhar Narsingdas Aggarwal [1997 (89) E.L.T. 19 (SC)]* The appellant also cited Customs Circular No. 04/2012-Cus dated 17.02.2012, wherein it was directed to complete all pending assessment considering "Fe" content on Wet Metric Ton (WMT) basis. The appellant also referred to Notification No.62/2007-Customs dated 03.05.2007 wherein it has been notified that "Fe" content below 62% will attract customs duty at the rate of Rs. 50/- PMT.

2.2. In the impugned case, the load port analysis report showed "Fe" content as 63.22% on DMT basis. Accordingly, the appellant was of the view that the duty should have been charged on the basis of "Fe" content in the Iron ore in the form it was received/ exported i.e. on WMT basis. However, the Ld. Deputy Commissioner has finalised the Shipping bills vide Order-in-Original bearing No VIII-CUS-51(1677)/EXP/PDP/2007/807 dated 10.02.2017 charging custom duty at Rs. 300 MT on the net quantity considering the Fe content as 63.22% on DMT basis as per the load port analysis report.

2.3. The Appellant preferred appeal before the Ld. Commissioner (Appeals) praying that they are entitled for refund of excess custom duty paid considering that the "Fe" content on DMT basis was below 62% and accordingly custom duty should be calculated at the rate of Rs. 50/- PMT instead of Rs. 300/- PMT. The Ld. Commissioner (Appeals), Bhubaneswar vide impugned order dated 28.12.2017, rejected the appeals, on the ground of non-availability of CRCL test report and certificates of authorized inspection agency showing "Fe" content on WMT basis. Aggrieved against the impugned order, the appellant has filed this appeal.

3. The appellant submits that the issue is no more *res integra* in the view of the judgement the Tribunal, Kolkata in the case of *M/s. Bagadiya Brothers Private Limited v. Commissioner of Customs (Port), Kolkata and Commissioner of Customs (Preventive), Bhubaneswar [2023 (9) TMI 827 - CESTAT KOLKATA] pronounced on 15 September 2023* whereby on a similar issue, the Tribunal has held that Fe content is to be determined on WMT basis and duty has to be charged on such basis.

3.1. Reliance has also been placed by the appellant on a similar order passed by the Tribunal at Kolkata in the case of *Commissioner of Customs (Prev.), Bhubaneswar v. M/s. Jindal Steel & Power Limited [Customs Appeal No.75769 of 2023 dated 30.10.2023 – CESTAT, Kolkata]*.

3.2. The appellant submits that the Ld. Commissioner has grossly erred in the determination of final export duty by considering the “Fe” content on DMT basis. It is a settled law that the goods have to be assessed in the form and manner in which they are presented for assessment. Specifically, in reference to levy of export duty on Iron Ore Fines, it has been held that the iron content for charging export duty is required to be determined on WMT basis and not DMT basis. In this regard, the appellant placed their reliance on the judgment of Hon’ble Supreme Court in *Gangadhar Narsingdas Aggarwal (supra)*

3.3. It is submitted that on the basis of the foregoing judgment, Board has issued Circular No. 04/2012-Cus dated 17.02.2012, wherein it was specifically provided that the net “Fe” content for the purpose of charging export duty is to be determined on WMT basis.

3.4. It is their submission that the method of determining Fe content on WMT basis is discussed by Hon’ble High Court of Bombay in the case of *V.M. Salgaocar and Brother Pvt. Ltd v. The Assistant Commissioner of Customs (Export) [2022 (9) TMI 1306]*. The Court mentioned that it is universally recognised and followed for determination of Iron content in natural iron ore fines. The appellant contends that the said methodology has also been accepted by the CESTAT, Kolkata and followed in the case of *M/s. Bagadiya Brothers Private Limited (supra)*.

3.5. Accordingly, the appellant prayed for setting aside the impugned order and to allow their appeal.

4. The Ld. Authorized Representative appearing for the Revenue submits that in this case, the contractual agreement was on DMT basis and the “Fe” content on Dry Metric Ton (DMT) basis is 63.22% as per the

load port analysis report. Accordingly, he submits that export duty was correctly charged @ Rs. 300/- per MT.

5. Heard both sides and perused the appeal records.

6. We observe that the appellant got a contract dated 01.10.2007 to export 15,000 MT of Iron Ore fines to China. Accordingly, they filed two shipping bills for the export of 15,000 MT of iron ore. The load port analysis report showed the “Fe” content as 63.22% on DMT basis. Accordingly, both the shipping bills dated 26.11.2007 filed by the appellant for export of 15,000 MT of iron ore were assessed provisionally and the appellant paid export duty at the rate of Rs. 300/- per MT along with applicable cess as per the Customs Tariff Act.

6.1. We observe that after the decision of the Hon’ble Supreme Court in the case of ***Union of India v. Gangadhar Narsingdas Aggarwal [1997 (89) E.L.T. 19 (SC)],*** the Board issued Customs Circular No. 04/2012-Cus dated 17.02.2012, wherein it was directed to complete all pending assessments considering “Fe” content on Wet Metric Ton (WMT) basis. We also observe that Notification No.62/2007-Customs dated 03.05.2007 was issued, wherein it has been notified that “Fe” content below 62% will attract customs duty at the rate of Rs. 50 PMT.

6.2. We observe that the Ld. Deputy Commissioner has finalised the Shipping bills vide Order-in-Original dated 10.02.2017 charging custom duty at Rs. 300/- per MT on the net quantity considering the “Fe” content as 63.22% on DMT basis as per the load port analysis report. We observe that the Order-in-Original finalising the provisional assessments on WMT basis is contrary to the decision of the Hon'ble Supreme Court in the case of ***Gangadhar Narsingdas (supra)*** *and the* Board Circular No. 04/2012-Cus dated 17.02.2012, wherein it has been categorically directed to finalise all pending provisional assessments considering "Fe" content on Wet Metric Ton (WMT) basis. In spite of the specific directions, the ld. adjudicating authority has finalised the provisional assessments on DMT basis. For the sake of ready reference, the said Finalisation order is reproduced below:

" **FINAL ASSESSMENT ORDER**

Sub: Re-assessment/ Final assessment of shipping bill No. 777/1OF/2007-08 dt:26.11.2007 & 778/1OF/2007-08 dt:26.11.2007 of M/s. Narbheram Vishram for export of 19000 MT Iron Ore Fines per vessel MV."ISLAND SINGAPURA", Rot. No.EXP/547/2007 dt:26.11.2007 in pursuance of order dt:20.09.2016 of Hon'ble High Court of Orissa in WP (C) No.23278/2015.

In pursuance of Order dated:20.09.2016 passed by the Hon'ble High Court of Orissa, Cuttack in W.P(C) No.23278 of 2015 filed by M/s Narbheram Vishram and further submission of final commercial invoice, discharge port analysis report (basis for final Invoice), Bank realization certificate towards consideration received by the exporter, Shipping Bill No-777/IOF/2007-08 dr:26.11.2007 & 778/1OF/2007-08 dt:26.11.2007 filed by M/s. Narbheram Vishram, through their CHA, M/s. B.G.Somadder & Sons Pvt. Ltd. Paradeep, for export of Iron ore fines are hereby assessed finally under Section 18(2) of the Customs Act, 1962 (details of which are given in the table below).

During the Personal Hearing, held on 25.10.2016 in the matter, M/s. Narbheram Vishram has also contended and requested that their Shipping Bills may kindly be re-assessed/ finalised as per the order of Hon'ble Supreme Court in Union of India Vs Gangadhar Narsingdas Aggrwal and CBEC Circular No.4/2012- Cus dt:17.02.2012. In this regard, it is seen from the records that the Customs Duties appears to have been calculated correctly on the basis of Net Quantity and there appears to be no further requirement on this aspect for re-calculation of duty. Accordingly, the Shipping Bill No.777/IOF/08-09 & 778/1OF/08-09 both dt:26.11.2007 are re-assessed/ finalised as below:

CALCULATION SHEET							
S/Bill No. & Date:	777/IOF/07-08 & 778/IOF/07-08 both dt: 26.11.2007						
Name of Vessel	MV. "ISLAND SINGAPURA", ROT NO-EXP/547/2007, DATE: 26.11.2007						
Commodity	Iron Ore Fines						
Tariff Classification	26011140						
Exporter	M/s. NARBHERAM VISHRAM						
Bill of Lading No. & Date:	03, Dt: 04.12.2007 &						
Invoice No. & Date:	KNR/VISA/07/0708-INV01 DT:10.12.2007 &						
	Provisional			Short shipment of 305 MT	**Final**		
S/B No.	777/IOF/07-08	778/IOF/07-08			777/IOF/07-08	778/IOF/07-08	
Quantity	16000	3000	WMT		16000	2695	WMT
Fe Content	63.5	61	%		63.22	61.64	%
Moisture	9	9	%		7.28	7.50	%
Moisture quantity	1440.00	270.00	MT		1164.80	202.13	MT
Net Quantity	14560.00	2730.00	DMT		14835.20	2492.88	DMT
Export Duty @300/- PMT	4800000	150000	INR		4800000	134750	INR
Cess @Rs.1.03 PMT	16480	3090	INR		16480	3090	INR
Total Duty	4816480	153090	INR		4816480	137840	INR
Customs duty excess Paid/refundable (for both S/Bs)					15,250/-		INR

The Shipping Bills are accordingly re-assessed/finalized.

(VISHNU KUMAR)
Deputy Commissioner,
Customs Division, Paradeep

…."

6.3. From the Finalisation Order, reproduced above, we observe that 7.28 was the moisture content in Shipping Bills No. 777/IOF/07-08 and 7.50 was the moisture content in the Shipping Bill No. 778/IOF/07-08. However, the Ld. Dy. Commissioner has not taken the moisture content into account and finalised the Shipping Bills on DMT basis, which is against the decision of the Hon'ble Supreme Court in the case of *Union of India v. Gangadhar Narsingdas Aggarwal [1997 (89) E.L.T. 19 (SC)]* and the Board Circular No. 04/2012-Cus dated 17.02.2012. Accordingly, we hold that the provisional assessment finalisation order mentioned *supra* is legally not sustainable.

6.4. We observe that the issue is no more *res integra* in the view of the decisions of the Tribunal, Kolkata in the case of ***M/s. Bagadiya Brothers Private Limited v. Commissioner of Customs (Port), Kolkata and Commissioner of Customs (Preventive), Bhubaneswar [2023 (9) TMI 827 – CESTAT, Kolkata] pronounced on 15 September 2023*** wherein on a similar issue, this Tribunal has held that 'Fe' content is to be determined on WMT basis and duty has to be charged on such basis. The relevant paragraphs of the said decision are reproduced below: -

> *"8. We find that the issue under dispute in these cases is whether for deciding the classification and rate of duty payable, the Fe %age of Iron Ore Fines is to be determined on Dry Metric Ton (DMT) basis or Wet Metric Ton (WMT) basis.*
>
> *9. The issue stands decided as early as 1997 by Hon'ble Supreme Court in the case of Union of India Vs Gangadhar Narsingdas Aggarwal – 1997 (89) ELT 19(S.C.) and subsequent CBEC Circular No. 4/2012-Cus dated 17.12.2012 which was issued for adoption of uniform*

Customs procedure in all Customs Houses. In the said Circular, it was stipulated that for the purpose of charging of export duty the assessment of Iron ore, determination of Fe contents is required to be made on Wet Metric Ton (WMT) basis which in other words mean deducting the weight of all impurities (inclusive of moisture) out of the total weight/Gross Weight to arrive at Net Fe contents.

9.1 The rate of duty was being fixed, then and also now, on the basis of percentage of iron(Fe) in the ore. The higher is the percentage, more the rate of duty. In WMT the percentage of iron is taken from the material as it has been presented for exports, which contain all types of impurities – Moisture, Sulphur, Phosphorus, Aluminium trioxide etc. The percentage of impurities is substantial. If the percentage of Fe is taken after deducting all quantity of impurities, percentage of Fe will be lower. Therefore, the rate of duty will be lower. The Supreme Court directed that "the percentage of Fe will be taken out of total material presented for export after deducting all the impurities including moisture.

1. This has been followed in the following judicial pronouncements :

i) SOCIEDADE DE FOMENTO INDUSTRIAL PVT. LTD.- 1987 (30) E.L.T. 686 (Goa High Court) [Para7] where similar view was taken as under :

> *"The iron contents in the moist iron ore which was exported ought to have been calculated following the well-recognised international practice and the duty calculated on basis of the said iron contents in the moist ore exported. By ignoring the moisture contents in the exported ore, the Customs Authorities arrived at a manifestly erroneous conclusion that cannot be sustained, as they were bound to consider; all the relevant circumstances ".*

ii) In the case of Mineral Enterprises Ltd. Vs CC Mangalore – 2010 (253) ELT 241 (Tri. – Bang.), the Tribunal has explained that the departmental chemist has reported the *goods 64.6% on moisture free basis whereas the export was in moist condition. Report submitted by exporter stating Fe content as 63.00% is accepted. (No further Appeal)*

iii) Similarly, while determining the rate of duty under Notification No. 62/2007-Cus Dt. 3.5.2007, the Tribunal in the case of CC (Port) Kolkata Vs Sesa Goa Ltd. – 2014 (310) ELT915 (Tri.-Kol.) has observed[Para 5]

> *"On a plain reading of the said Notification, it is clear that the conditions, in which the goods are exported, become relevant in determining Fe content; for application of the said Notification". (No further Appeal).*

iv) The same issue was again agitated before the Tribunal, Hyderabad Bench in the case of General Nice Mineral Resources (I) P. Ltd. Versus C.C. Vijayawada-2017 (352) E.L.T. 94 (Tri. - Hyd.). The court reiterated Para 3 of Board Circular No. 4/2012-Cus dated 17.2.2012 and held "…. for the purpose of charging of export duty the assessment of Iron ore for determination of Fe contents shall be made on Wet Metric Ton (WMT) basis which in other words mean deducting the weight of impurities (inclusive of moisture) out of the total weight/Gross Weight to arrive at Net Fe contents"[.emphasis added] (No Appeal)

v) This issue was also discussed and decided by the Tribunal in the case of Oblapuram Mining Company Pvt. Ltd. Vs CC Visakhapatnam – 2017-TIOL-1169 (CESTAT - Hyd.), where the party filed Appeals against two OIO and the department also filed Appeal against the same two OIOs. The Division Bench followed the Board's Circular No. 4/2012 dated 17.12.2012 and the Supreme Court Judgments cited above dismissed the departments appeal.

vi) All these cases have attained finality.

9.2 While finalizing the assessment of subject S/B, the assessing officers have overlooked the most important aspect of assessment, namely, determination of Fe *content for the purpose of classification/rate of duty applicable.*

9.3 It would not be out of place to mention here that the ld. Commissioner of Customs, Mangalore in Para 22 of his Order-In- Original No.02/2010 under C. No. VIII/10/22/2009/Adjn dated 28.3.2010, has recorded as follows :

> *"22. To resolve the issue relating to the moisture content in the sample in lieu of the various judicial pronouncements and to retain the relevance of the test report given by the Chemical Examiner, Custom House, Cochin this office had earlier written to the Central Revenue Control Lab, New Delhi who has opined vide his letter dated 22.01.2009 that the iron content in samples in received basis can be calculated from iron content on dry basis if the moisture content in the samples as received basis is known:*
>
> *Iron content = Fe x (100-M) / 100*
>
> *(on as received basis)*
>
> *Where Fe is % age of iron content on dry basis,*
>
> *M is moisture content in the sample.*
>
> *This method although not the best, was temporarily adopted by the department in previous orders on similar matters so as to meet the requirements of various judicial pronouncements." [we are attaching the order]*

9.4 This method of determining Fe content in WMT is elaborately by discussed by Hon'ble High Court of Bombay in Para 47 of its judgement in WP No. 216/2022 in case of V M Salgaokar Brothers. The Court mentions that it is universally recognised and followed for determination of Iron content in natural iron fines.

9.5 If the above formula is applied, in both the above cases under appeal, the Fe content of Iron Ore Fines exported on WMT basis would be more than 55% but less *than 58% and hence would fall under CTSH 2601 11 42 as per the Tariff structure of the relevant period and would attract Nil rate of duty in terms of Notification No.27/2011-Cus Dt.1-3-2011 (Sl.No.20A) as amended by Notification No.15/2016-Cus Dt.01.03.2016.*

9.6 The Ld. Commissioner (Appeals) have only focussed on the valuation of the Iron Ore Fines, which is not in dispute. Here, classification of Iron Ore Fines exported and how the Fe %age is to be determined (as the classification is based on Fe content), is the question which the Commissioner (Appeals) have not addressed in their Orders. Therefore, the Orders in Appeal are not legal, proper and correct.

9.7 Meanwhile, with effect from 1.5.2022, by a Supplementary Note to Chapter 26, inserted in Indian Customs Tariff, it has been stipulated that in relation to the products under the heading 2601 the percentage of Fe (Iron) content wherever specified shall be calculated on dry metric ton basis.

9.8 It means that, only after 1.5.2022 for determination of Tariff heading the Fe content shall be calculated on DMT basis. And prior to 1.5.2022, the calculation of Fe content shall be on WMT basis.

9.9 The Hon'ble High Court of Bombay at Goa in their Order in Writ Petition No. 216/2022 dated 23.09.2022 in the case of VM Salgaokar & others vrs Asst Commissioner of Customs(Export), Goa & others have very elaborately dealt with this issue. The relevant portions are at Para 14 as under :-

> *"14. The petitioners have contended that the determination of Fe(iron) content on WMT basis was considered to be an acceptable norm in the prior assessments, which was clear from the fact that by virtue of the Finance Act 2022, for first time an amendment to the First Schedule to the Tariff Act, has been incorporated by adding a supplementary note in Chapter 26 to the effect that for the products of CTH 2601, the percentage*

of Fe (iron) content wherever specified, shall be calculated on the 'Dry Metric Ton' (DMT) basis to be effective from 01.05.2022. Hence, according to the petitioners there could not have been any adoption of the DMT method in respect of any assessment for the period prior to 1 st May 2022.

63. In the light of the above discussion, Court ordered the petition is partly allowed in terms of the following directions :

"I. Insofar as the assessments in relation to the period prior to 1 st May 2022 are concerned, they shall be governed by the principles of law in regard to the classification as laid down by the Supreme Court in Union of India vs. Gangadhar Narsingdas Aggarwal (supra), as clarified by the communication dated 17 February 2012, of the Tariff unit of the Ministry of Finance Department of Revenue (CBEC) Customs-IV Division.

II. The GA Circular No. 2/2019 dated 12/15 April 2019, being not issued under Section 151-A of the Customs Act, same cannot form the basis of any assessment.

III. In view of our above conclusion, we set aside the impugned orders-in-original dated 17 March 2022 and 13 March 2022 passed by the Assistant Commissioner of Customs.

IV. We order a remand of the matter in both the cases to the Assistant Commissioner of Customs, who shall hear the petitioners and pass a fresh order in accordance with law, in the light of the principles of laws as discussed by us in this judgement. Such exercise shall be undertaken within a period of three months from today.

64. Rules is made absolute in the above terms, No costs".

Signed – BHARAT P. DESHPANDE, J. G.S. KULKARANI, J."

9.10 The Assessing Officer for the impugned Shipping Bills have adopted the Test Report of Griffith India Pvt. Ltd. as it provides details of all types of impurities including moisture, even though they said report is arrived at on DMT basis.

10. In view of the above discussions, we pass the following orders :

i) direct the assessing officers to determine Fe content on WMT basis by deducting the moisture given in the test reports of NABL accredited government approved Private Laboratory ;

ii) convert the %age of Fe on DMT basis to %age of Fe on WMT basis by applying the universally recognised formula for determination of classification of IOF exported. The formula is :-

Iron content = Fe x (100-M) / 100

(on as received basis)

Where Fe is % age of iron content on dry basis,

M is moisture content in the sample.

iii) finalise the assessments accordingly.

11. Accordingly, the impugned orders are set aside and the appeals are allowed with consequential relief, if any, as per law."

6.5. Regarding the 'Fe' content in the iron ore exported on WMT basis, we observe that the appellant has submitted a Certificate issued by the authorized inspection agency, Visiontek Consultancy Services Pvt. Ltd, certifying that the iron ore content on WMT basis is 58.61%. For the sake of ready reference, the scanned copy of the said Certificate is reproduced below:

Visiontek Consultancy Services Pvt. Ltd.

(Committed For Better Environment)

Certified for: ISO 9001:2015, ISO 14001:2015, ISO 45001:2018 (OH&S), ISO/IEC 17025:2017

Accredited by: NABET-A Grade, MOEF & CC/CPCB & SPCB-A Grade

- Surface & Sub-Surface Investigation
- Quality Control & Project Management
- Renewable Energy
- Agricultural Development
- Information Technology
- Public Health Engineering
- Mine Planning & Design
- Mineral/Sub-Soil Exploration
- Waste Management Services

Laboratory Services: Environment Lab, Food Lab, Material Lab, Soil Lab, Mineral Lab & Microbiology Lab

Ref: VCSPL/23-24/TR/07014

Date: 11.09.2023

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To
M/s Narbheram Vishram
N.V. Ram Complex, P.O. Barbil
Dist :Keonjhar, Odisha – 758 035

Re: Determination Iron in WMT (wet metric ton) Quantity.

TO WHOM IT MAY CONCERN

We hereby certify that determination of iron content on Wet Metric Tonne (WMT) basis has been solely based on the data as reflected in the analysis report provided by M/s Inspectorate Griffith towards exportation of Iron Ore Fines by M/s Narbheram Vishram vide shipping bill 0007771OE/07-08 dated 26.11.2007 through vessel MV Island Singapura for a quantity of 16,000 MT. The analysis test certificates so far as weight and analysis report are concerned and the concerned shipping bill are being marked as **annexure1&2** respectively.

The analysis of Iron content on WMT basis, is as follows:

Sl. No.	Item	Detail
(a)	Exported Quantity	16,000 MT
(b)	Iron Percentage (dry basis)	63.22%
(c)	Moisture Percentage	7.28%
(d)	Moisture Quantity [(c) x (a)]	1,164.80 MT
(e)	DMT Quantity [(a) - (d)]	14,835.20 MT
(f)	Iron in DMT quantity [(e) x (b)]	9,378.8134 MT
(g)	Iron in WMT quantity [(f) ÷ (a) x 100]	58.617584%

Any discrepancy or inaccuracy in the attached annexure documents may affect the accuracy of this certificate.

We further declare that the information provided in this certificate is true and accurate to the best of our knowledge and belief.

Thanking you
Yours faithfully,

For Visiontek Consultancy Services Pvt. Ltd.

Plot No.- M-22 & 23, Chandaka Industrial Estate, Patia, Bhubaneswar, Khurda, Odisha-751024, India Tel.: 0674-3511721
E-mail: visiontek@vcspl.org, visiontekin@gmail.com
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6.5.1. A perusal of the Certificate reproduced above indicates that the percentage of 'Fe' content in the iron ore exported is 58.61%, which is less than 62%. As per Notification No.62/2007-Customs dated 03.05.2007, when the "Fe" content is below 62%, the customs duty payable on the iron ore exported is at the rate of Rs. 50/- per MT. Accordingly, we hold that the appellant is liable to pay customs duty @ Rs.50/- per MT for the iron ore exported vide the above said two shipping bills. As the appellant has already paid customs duty @ Rs.300/- per MT, the appellant is eligible for refund of excess customs duty paid at the time of export.

7. In view of the above discussion, we set aside the impugned order as well as the Finalisation order dated 10.02.2017 and remand the matter back to the adjudicating authority to finalise the provisional assessment on the basis of the above directions. Upon finalisation, the appellant is eligible for the refund of the excess duty paid at the time of export.

8. The appeal is disposed on the above terms.

(Order pronounced in the open court on **19.07.2024**)

Sd/-

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd