IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA

REGIONAL BENCH – COURT NO.1

Customs Appeal No.76206 of 2019

(Arising out of Order-in-Appeal No.Kol/Cus(Port)/AA/136/2019 dated 19.02.2019 passed by Commissioner (Appeals) of Customs, Kolkata)

Commissioner of Customs (Port), Kolkata
(15/1, Strand Road, Kolkata-700001)

Appellant

VERSUS

M/s Chamong Tee Exports Pvt. Ltd.
(2,N.C.Dutta Sarani,Sagar Estate, Unit No.1,5th Floor,Kolkata-700001)

Respondent

APPERANCE :

Shri Sameer Chitkara (Commr.) & Shri Subrata Debnath, both Authorized Representatives for the Appellant
Shri Amit Kumar, Advocate for the Respondent

CORAM:
HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE MR.K.ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.77057/2025

DATE OF HEARING : 23 JULY 2025
DATE OF DECISION : 23 JULY 2025

Per Ashok Jindal :

Revenue is in appeal against the impugned order.

2. The facts of the case are that the respondent filed four Shipping Bills for the export of "Iron Ore Fines" of Indian Origin in the year, 2013. The said Shipping Bills were provisionally assessed on execution of provisional duty bond as submitted by the exporter and the goods were assessed @ 30% export duty ad valorem taking WMT on the basis for assessment.

2.1 The respondent applied for finalization of the Shipping Bills and submitted the required documents.

2.2 The adjudicating authority assessed the goods on the basis of DMT of the iron ore fines on the basis of judgement relied upon by them and the CBEC Circular No.12/2014-Cus dated 17.11.2014 to arrive at the final assessable value of the exported goods. As such, the adjudicating authority on the basis of contract base price and the adjustment clause and the final invoice as raised by the respondent, re-determined the value of the goods and granted the refund of excess duty to the respondent.

2.3 As per final invoice, the declared FOB value was USD 1345842.82 for the subject four Shipping Bills. The adjudicating authority held the above as re-determined and the duty liability was Rs.2,36,80,104/- & there was an excess amount of Rs.69,00,006/- paid during provisional assessment and found refundable.

2.4 On the basis of the above findings, the adjudicating authority finalized the assessment in respect of the above four Shipping Bills and ordered for refund of the excess duty paid by the respondent.

2.5 The said order was reviewed and it was held that the said order is not proper and legally not sustainable.

2.6 An appeal was filed before the ld.Commissioner (Appeals) and affirmed the order of the adjudicating authority.

2.7 Against the said order, the Revenue is in appeal.

3. The submission of the Revenue is that the impugned order is the violation of Section 149 of the Customs Act, 1962, therefore, the same is required to be set aside.

4. Heard the ld.A.R. for the Revenue and gone through the records placed before us.

5. We find that as per the Clause of the Agreement, the adjustment price was made and the amount which has been realized by the respondent was taken into consideration while considering for finalization of provisional assessment. In that circumstances, we do not find any infirmity in the impugned order and merit in the appeal, accordingly, the same is dismissed.

(Operative part of the order was pronounced in the open court)

(Ashok Jindal)
Member (Judicial)

(K.Anpazhakan)
mm **Member (Technical)**