

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

REGIONAL BENCH – COURT NO. 2

**Customs Appeal No. 76211 of 2024**

(Arising out of Order-in-Appeal No. Kol/Cus/Port/Ks/395/2024 dated 24.06.2024 passed by the Commissioner of Customs (Appeals) 3<sup>rd</sup> Floor, Custom House, 15/1, Strand Road, Kolkata-700001)

**M/s. Rungta Sons Pvt. Ltd.,**  
Rungta House, Chaibasa Jharkhand-833201.

**: Appellant**

**VERSUS**

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

**: Respondent**

**APPEARANCE:**

Shri S. C. Chowdhury, Advocate  
for the Appellant

Shri S. Chitakra, & S. Debnath, Both Authorized Representative  
for the Respondent

**CORAM:**

**HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)**  
**HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 77775/2025**

DATE OF HEARING / DECISION: 24.11.2025

**Order: [PER SHRI K. ANPAZHAKAN]**

The issue involved in the present appeal is whether for the purpose of classification to determine the rate of export duty, the Fe percentage has also to be arrived at on Dry Metric Ton (DMT) basis or WMT basis. The Assessing Officer has decided the classification based on Discharge Port Test Report (DPTR), which were in Dry Metric Ton (DMT) basis. In the impugned Order-in-Appeal No. Kol/Cus/Port/Ks/395/2024 dated 24.06.2024, the Commissioner of Customs (Appeals) has upheld the demand of customs duty determined on DMT

basis. Aggrieved against the confirmation of the demands, the Appellant has filed this appeal.

2. The Appellant submits that In Dry metric ton basis (DMT), the Fe content in the total mass is determined after expelling all the moisture and impurities by heating up to 105 degree Centigrade for two hours. In wet metric ton basis (WMT), the Fe content is determined as a percentage of total matter, including moisture, contained in the sample. The DMT basis invariably shows a higher percentage than WMT basis, thereby pushing the duty payable to a higher rate band, which has happened in this case.

2.1. The Appellant submits that the Hon'ble Supreme Court in Gangadhar Narsingdas case has laid down the principle that for purpose of rate of duty, the %age of iron in ore has to be decided by taking iron proportion from the total mass of ore including Moisture, i.e., on Wet Metric Ton (WMT) basis. The CBEC vide its Circular No. 04/2012-Cus dated 17.02.2012 has clarified that, in light of the observation by the Apex Court that export duty is chargeable according to Fe contents, and to maintain uniformity all over the custom houses, 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, means deducting the weight of impurities (inclusive of moisture) out of the total weight/Gross Weight to arrive at Net Fe contents. Subsequently many cases were decided by courts and administrative bodies following this Judgement.

2.2. The Appellant submits that the assessing officer while deciding classification should have

followed the above judgements and Board's circular which were binding upon him. But he not only failed to do so, but also diverted the issue towards valuation placing reliance in the case of Commissioner of Customs(Port), Kolkata vs Sesa Goa Ltd. The Commissioner(Appeals) also followed suit and upheld the assessments. The appellant submits that Valuation and Classification are two distinct aspects. The appellant has no dispute on valuation and the dispute in this case is only on classification. In the above judgement of the Hon'ble Supreme Court, the issue involved was of classification. Now also it is issue of classification. Hence whether rate of duty is specific or advalorem, does not matter as long as the classification is dependent upon Fe content.

2.3. The appellant submits that the issue has been recently settled by the Board administratively by amending the Tariff making all references to Iron Ore percentage as DMT percentage basis and judicially 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 V M Salgaokar & others vs Asst. Commissioner of Customs (Export), Goa & others has decided all classifications prior to 1 May 2022 will be done on WMT basis and after 01.05.2022 on DMT basis.

2.4. The Appellant also submits that the issue stands covered in the following judicial decisions:

i) 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;

ii) Final Order No 76644-76645/2023 Dated 15.09.23 of CESTAT, Kolkata in case of Bagadiya Brothers Private Limited.

iii) Final Order No 77496/2023 Dated 30.10.2023 of CESTAT, Kolkata in case of Jindal Steel & Power Limited.

iv) Final Order No. 77738-77769/2024 Dated 05.11.2024 of CESTAT, Kolkata in case of Appellant (Rungta Groups - Common Order)

2.5. In view of the above decisions, the appellant prayed for setting aside the demands of duty along with interest and penalty confirmed in the impugned order and allow their appeal.

3. The Ld. A.R. reiterated the findings in the impugned order. He fairly conceded that the decisions cited by the appellant are supporting the case of the appellant.

4. Heard both sides and perused the appeal documents.

5. The issue involved in the present appeal is whether for the purpose of classification to determine the rate of export duty, the Fe percentage has also to be arrived at on Dry Metric Ton (DMT) basis or WMT basis?. We find that the issue stands decided in favour of the Appellant by the decisions of different judicial fora as mentioned in para 2.4. supra. Further, 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 V M Salgaokar & others vs Asst. Commissioner of Customs (Export), Goa & others has decided all classifications prior to 1 May 2022 will be done on WMT basis and after 01.05.2022 on DMT basis. As

the issue involved in the present case pertains to the period prior to 01.05.2022, the Fe percentage has also to be arrived at on WMT basis.

5.1. We find that the issue is no longer res integra as this bench has also taken the above view in the case of M/s. Bagadiya Brothers private Ltd, vide FINALORDERNO...76644-76645/2023 dated 15.09.2023.

5.2. The same view has been taken by this bench in Appellant's own case, vide Final Order NOs.77738-77769/ 2024 decided on 05.11.2024. The operative portion of the latest judgement issued by this court on 05.11.2024, which reads as under:-

*"Para 23 - In the light of the above discussions, we pass the following order:*

*(i) The matter is remitted to the assessing authorities who are directed to determine Fe content of subject Iron Ore Fines shipments on WMT basis by deducting the moisture inclusive of other impurities given in the Load Port Test Report (LPTR) of NABL accredited and government approved Private Laboratory/Testing Agency by converting the percentage of Fe content on DMT basis to percentage of Fe content on WMT basis applying the following formula for determination of classification of IOF exported, viz.: Iron content =  $Fe \times (100-M)/100$  (on as received basis) Where Fe is percentage of iron content on dry basis, M is moisture content including other impurities in the sample and to finalise the assessments accordingly.*

*(ii) The impugned orders are set aside and the appeals are allowed by way of remand as per direction given at Paragraph 23 (i) above."*

11. Since there is no formula prescribed in the Indian Standard (IS-1493/1953) for conversion of Iron Ore in a dried sample into its equivalent in the moist sample, this Hon'ble Kolkata bench has been consistently directing to apply the following internationally accepted formula for converting Fe % on DMT basis to Fe %age on WMT basis:

*BA (100-M)/100, Where*

*B=% of Fe content in samples on as received basis,  
A=% of Fe as per the Lab report, i.e. on Dry basis,  
M = % of Moisture content in the sample.*

6. Respectfully following the decisions cited supra, we hold that the demand of customs duty along with interest and penalty confirmed in the impugned order is not sustainable and hence, we set aside the same.

7. In the light of the above discussions, we pass the following order:

*(i) The matter is remitted to the assessing authorities who are directed to determine Fe content of subject Iron Ore Fines shipments on WMT basis by deducting the moisture inclusive of other impurities given in the Load Port Test Report (LPTR) of NABL accredited and government approved Private Laboratory/Testing Agency by converting the percentage of Fe content on DMT basis to percentage of Fe content on WMT basis applying the following formula for determination of classification of IOF exported, viz.: Iron content =  $Fe \times (100-M)/100$  (on as received basis) Where Fe is percentage of iron content on dry basis, M is moisture content including other impurities in the sample and to finalise the assessments accordingly.*

*(ii) The impugned orders are set aside and the appeals are allowed by way of remand as per direction given at Paragraph 5.4 (i) above."*

*(iii). Since there is no formula prescribed in the Indian Standard (IS-1493/1953) for conversion of Iron Ore in a dried sample into its equivalent in the moist sample, this Hon'ble Kolkata bench has been consistently directing to apply the following internationally accepted formula for converting Fe % on DMT basis to Fe %age on WMT basis:*

*BA (100-M)/100, Where*

*B=% of Fe content in samples on as received basis,  
A=% of Fe as per the Lab report, i.e. on Dry basis,  
M = % of Moisture content in the sample.*

8. In the result, we set aside the impugned order and allow the appeal filed by the Appellant with consequential relief, if any, as per law.

(Operative part of Order was pronounced in Open court)

**(R. MURALIDHAR)**  
MEMBER (JUDICIAL)

**(K. ANPAZHAKAN)**  
MEMBER (TECHNICAL)

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