

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST ZONAL BENCH AT MUMBAI**

REGIONAL BENCH - COURT NO. 02

Customs Appeal No. 87913 of 2013

(Arising out of Order-in-Appeal No. PVR/238/NGP/2013 dated 23.04.2013
passed by Commissioner of Central Excise & Customs (Appeals), Nagpur)

**M/s Minex Metallurgical Co.
Pvt. Ltd.**

.....Appellant

68/3, Nimji, Taluka-Kalmeshwar,
Dist: Nagpur-440028

VERSUS

**Commissioner of Central Excise,
Nagpur**

.....Respondent

Telangkhedi Road, Civil Lines,
Post Box No. 81, Nagpur-440001

Appearance:

Shri P.V. Sadavarte, Advocate for the Appellant

Ms. Trupti Chavan, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. A/87494/2019

Date of Hearing: 02.12.2019

Date of Decision: 02.12.2019

Per: S.K. MOHANTY

Heard both sides and perused the records.

2. The appellant has assailed the impugned order dated 23.04.2013 passed by the Commissioner (Appeals), Central Excise & Customs, Nagpur on the ground that imposition of redemption fine and penalty in respect of the goods imported by it is not proper and justified.

3. Paragraph 9.1 and 9.2 containing the findings in the impugned order are relevant for consideration of the present appeal, which are extracted herein below:

"9.1. I observe that the Appellant has imported 24.990 MT of goods declaring it as "Aluminum Telic". However, on examination of the cargo in presence of CHA and

under supervision of the Assistant Commissioner, ICD, it was found that out of total quantity of 24.990 MT, a quantity of 9.996 MT was "large rod shaped 3 inch long pieces" which appeared to be "TATA" as per the grading of ISRI.

9.2. I find that the Appellant has accepted the classification of the 9.996MTs of "large rod shaped 3 long pieces" as "TATA as per the ISRI grade" and also agreed to pay the duty difference. The Appellant also waived the right to show cause notice and personal hearing considering which the Respondent has finalized the proceedings vide the impugned Order-in-Original. Hence, I do not find strength in the appellant's contention at this stage that, by not conducting chemical test, the principle of natural justice has been denied to the appellant. Having agreed to the re-classification of the goods as "TATA" at the time of clearance, the importer is not permitted to raise the issue now."

4. On perusal of the observations made in the impugned order, we find that the appellant herein had not contested the issue regarding classification of goods before the authorities below and also deposited the differential duty voluntarily without any protest. Since, this is a case of mis-declaration of goods, we are convinced that imposition of redemption fine and penalty on the appellant is proper and justified. The grounds urged in this appeal have no substance inasmuch as such plea were not made before the authorities below and the appellant had voluntarily deposited the duty amount, without any protest.

5. Therefore, we do not find any infirmity in the impugned order and accordingly, appeal filed by the appellant is dismissed.

(Dictated and pronounced in the open court)

(S.K.Mohanty)
Member (Judicial)

(P. Anjani Kumar)
Member (Technical)