CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 87286 OF 2013

[Arising out of Order-in-Appeal No: 156/MCH/DC/CRS(EP)/2013 dated 1st March 2013 passed by the Commissioner of Customs (Appeals), Mumbai Zone-I.]

SKM Steels Ltd
BOC Co, Plot No. J/93 MIDC Road
MIDC Taloja, Navi Mumbai – 410 208 … ***Appellant***

Versus

Commissioner of Customs (Export Promotion)
New Custom House, Ballard Estate
Mumbai – 400001 ***…Respondent***

APPEARANCE:

None for the appellant

Shri Mohd Shamshad Alam, Additional Commissioner (AR) for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)
HON'BLE DR SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO: A/87639 / 2019

DATE OF HEARING: 20/11/2019
DATE OF DECISION: 20/11/2019

PER: C J MATHEW

This appeal of M/s SKM Steel Ltd arises from order-in-appeal no. 156/MCH/DC/CRS(EP)/2013 dated 1st March 2013 of

Commissioner of Customs (Appeals), Mumbai Customs that had, on departmental appeal, aside the order of the original authority granting refund to them. The appellant had applied on 15th July 2011 for refund of ₹ 63,85,628.10, collected as 'special additional duty' of Customs at the time of import against bill no. 958746/21.07.2010 which, upon sanction, was restricted to ₹ 63,85,427 as 0.140 MTs out of the imported quantity of 4451.08 MTs remained unsold.

2. The first appellate authority accepted the contention of the competent review authority that the thickness of coils, described in the sale invoices, did not conform to the thickness described in the corresponding bill of entry along with existence of other discrepancies that were held to be in breach of notification no. 102/2007 dated 14th September 2007.

3. None appeared for the appellant. We have heard Learned Authorised Representative.

4. It is seen from the impugned order that, even though only some of the invoices were not in conformity, the entire claim was held as ineligible. This does not constitute an appropriate disposal of the claim for refund. In the light of the submissions made before the first appellate authority on behalf of the appellant-Deputy Commissioner, reconciliation of documentation to be undertaken original authority was the only viable option.

5. Accordingly, we set aside the impugned order and remand the refund claim back to the original authority for a fresh decision based on examination of the documentation that had been submitted along with the claim for refund.

(Pronounced in open court)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

(C J Mathew)
Member (Technical)

**/as*