CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 90150 OF 2014

[Arising out of Order-in-Appeal No: MUM-CUSTM-PRV-APP-509/14-15 dated 29th October 2014 passed by the Commissioner of Customs (Appeals), Mumbai – III.]

Commissioner of Customs (Preventive)
New Custom House, Ballard Estate, Mumbai - 400001 … ***Appellant***

versus

HEG Ltd
Rashtriya Chemicals & Fertilizers Ltd
Priyadarshini, Eastern Express Highway
Sion-Trombay Road, Mumbai - 400022 ***…Respondent***

APPEARANCE:

Shri DS Maan, Deputy Commissioner (AR) Advocate for the appellant

None for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)
HON'BLE MR AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO: 87121/2024

DATE OF HEARING:	14/11/2024
DATE OF DECISION:	14/11/2024

PER: C J MATHEW

This appeal has been filed, at the instance of Commissioner of

Customs (Airport), Mumbai, against order[1] of Commissioner of Customs (Appeals), Mumbai – III which, in response to appeal of M/s HEG Ltd against final assessment of bill of entry no. F-348 dated 30th October 2006, having consequence of differential duty and denial of concessional rate, for not having confirmed to the procedure prescribed in section 18 of Customs Act, 1962, including the issue of 'speaking order', for finalization of provisional assessment. The first appellate authority remitted the dispute back to the original authority for conformity with the requirement of law.

2. The case of the appellant-Commissioner is that section 128 of Customs Act, 1962 does not, any longer, permit the first appellate authority to remand the matters back to the original authority.

3. Though the said amendment, as set out in the appeal before us, was incorporated in section 28A(3) of Customs Act, 1962 with effect from 11th May 2001, subsequent amendments thereafter which, subject to conditions, restored the power of remand by Finance Act, 2018 with effect from 29th March 2018, is not to be perceived as a statutory block.

4. Doubtlessly the appeal was filed in 2014 but the intendment of law as it stands now should be the lens through which the relief now sought should be viewed. Hence, despite absence of respondent, and

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[1] [order-in-appeal no. MUM-CUSTM-PRV-APP-509/14-15 dated 29th October 2014]

having heard Learned Authorised Representative, we dispose off this appeal.

5. Appeal is dismissed as bereft of any prejudice to the appellant-Commissioner.

(Operative part of the order pronounced in the open court on 14th November 2024)

(AJAY SHARMA)	**(C J MATHEW)**
Member (Judicial)	***Member (Technical)***

**/as*