

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI**

REGIONAL BENCH - COURT NO. I

**Customs Early Hearing Application No. 87006 of 2024
In
Customs Appeal No. 87998 of 2024**

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

With

**Customs Early Hearing Application No. 87007 of 2024
In
Customs Appeal No. 87999 of 2024**

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

And

**Customs Early Hearing Application No. 87008 of 2024
In
Customs Appeal No. 88000 of 2024**

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

And

Customs Early Hearing Application No. 87009 of 2024

In

Customs Appeal No. 88001 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

And

Customs Early Hearing Application No. 87010 of 2024

In

Customs Appeal No. 88002 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

And

**Customs Early Hearing Application No. 87011 of 2024
In
Customs Appeal No. 88003 of 2024**

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/
Appeals dated 28.04.2022 passed by the Commissioner of Customs
(Appeals), Mumbai-II.)

Tata Motors Ltd.

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

And

**Customs Early Hearing Application No. 87012 of 2024
In
Customs Appeal No. 88004 of 2024**

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/
Appeals dated 28.04.2022 passed by the Commissioner of Customs
(Appeals), Mumbai-II.)

Tata Motors Ltd.

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

And

Customs Early Hearing Application No. 87013 of 2024

In
Customs Appeal No. 88005 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

.... Appellant

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

Versus

**Commissioner of Customs,
Nhava Sheva-V**

.... Respondent

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

And

Customs Early Hearing Application No. 87014 of 2024
In
Customs Appeal No. 88006 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

.... Appellant

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

Versus

**Commissioner of Customs,
Nhava Sheva-V**

.... Respondent

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

And

Customs Early Hearing Application No. 87015 of 2024
In
Customs Appeal No. 88007 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

.... Appellant

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

And

**Customs Early Hearing Application No. 87016 of 2024
In
Customs Appeal No. 88008 of 2024**

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/
Appeals dated 28.04.2022 passed by the Commissioner of Customs
(Appeals), Mumbai-II.)

Tata Motors Ltd.

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

And

**Customs Early Hearing Application No. 87017 of 2024
In
Customs Appeal No. 88009 of 2024**

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/
Appeals dated 28.04.2022 passed by the Commissioner of Customs
(Appeals), Mumbai-II.)

Tata Motors Ltd.

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

And

Customs Early Hearing Application No. 87018 of 2024
In
Customs Appeal No. 88010 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

And

Customs Early Hearing Application No. 87019 of 2024
In
Customs Appeal No. 88011 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

And

Customs Early Hearing Application No. 87020 of 2024
In
Customs Appeal No. 88012 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent**And****Customs Early Hearing Application No. 87021 of 2024****In****Customs Appeal No. 88013 of 2024**

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/
Appeals dated 28.04.2022 passed by the Commissioner of Customs
(Appeals), Mumbai-II.)

Tata Motors Ltd.

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent**And****Customs Early Hearing Application No. 87022 of 2024****In****Customs Appeal No. 88014 of 2024**

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/
Appeals dated 28.04.2022 passed by the Commissioner of Customs
(Appeals), Mumbai-II.)

Tata Motors Ltd.

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,

.... Respondent

Maharashtra- 400 707.

And

Customs Early Hearing Application No. 87023 of 2024
In
Customs Appeal No. 88015 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

.... Appellant

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

Versus

**Commissioner of Customs,
Nhava Sheva-V**

.... Respondent

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

And

Customs Early Hearing Application No. 87024 of 2024
In
Customs Appeal No. 88016 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

.... Appellant

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

Versus

**Commissioner of Customs,
Nhava Sheva-V**

.... Respondent

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

And

Customs Early Hearing Application No. 87025 of 2024
In
Customs Appeal No. 88017 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

And

Customs Early Hearing Application No. 87026 of 2024

In

Customs Appeal No. 88019 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

And

Customs Early Hearing Application No. 87027 of 2024

In

Customs Appeal No. 88020 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

And

**Customs Early Hearing Application No. 87028 of 2024
In
Customs Appeal No. 88021 of 2024**

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/
Appeals dated 28.04.2022 passed by the Commissioner of Customs
(Appeals), Mumbai-II.)

Tata Motors Ltd.

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

And

**Customs Early Hearing Application No. 87029 of 2024
In
Customs Appeal No. 88022 of 2024**

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/
Appeals dated 28.04.2022 passed by the Commissioner of Customs
(Appeals), Mumbai-II.)

Tata Motors Ltd.

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

And

Customs Early Hearing Application No. 87030 of 2024

In
Customs Appeal No. 88023 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

.... Appellant

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

Versus

**Commissioner of Customs,
Nhava Sheva-V**

.... Respondent

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

And

Customs Early Hearing Application No. 87031 of 2024
In
Customs Appeal No. 88024 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

.... Appellant

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

Versus

**Commissioner of Customs,
Nhava Sheva-V**

.... Respondent

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

And

Customs Early Hearing Application No. 87032 of 2024
In
Customs Appeal No. 88025 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

.... Appellant

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

Versus

**Commissioner of Customs,
Nhava Sheva-V**
Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

And

Customs Early Hearing Application No. 87033 of 2024
In
Customs Appeal No. 88026 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/
Appeals dated 28.04.2022 passed by the Commissioner of Customs
(Appeals), Mumbai-II.)

Tata Motors Ltd.
Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**
Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

And

Customs Early Hearing Application No. 87034 of 2024
In
Customs Appeal No. 88027 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/
Appeals dated 28.04.2022 passed by the Commissioner of Customs
(Appeals), Mumbai-II.)

Tata Motors Ltd.
Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

.... Appellant

Versus

**Commissioner of Customs,
Nhava Sheva-V**
Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

And

Customs Early Hearing Application No. 87035 of 2024
In
Customs Appeal No. 88028 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

.... Appellant

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

Versus

**Commissioner of Customs,
Nhava Sheva-V**

.... Respondent

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

And

Customs Early Hearing Application No. 87036 of 2024
In
Customs Appeal No. 88029 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

.... Appellant

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

Versus

**Commissioner of Customs,
Nhava Sheva-V**

.... Respondent

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

And

Customs Early Hearing Application No. 87037 of 2024
In
Customs Appeal No. 88030 of 2024

(Arising out of Order-in-Appeal No. 315 to 346 (Gr.V/VB/VI)/ 2022(JNCH)/ Appeals dated 28.04.2022 passed by the Commissioner of Customs (Appeals), Mumbai-II.)

Tata Motors Ltd.

.... Appellant

Geetanil, 13-19, Nagindas Master Road,
Hutatama Chowk, Mumbai- 400 001.

Versus

**Commissioner of Customs,
Nhava Sheva-V**

Jawaharlal Nehru Custom House,
Taluka- Uran, District- Raigad,
Maharashtra- 400 707.

.... Respondent

APPEARANCE:

Ms. Madhura Khandekar, Advocate for the Appellant
Shri Sunil Jain, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. A/85085-85116/2025

Date of Hearing: 21.01.2025

Date of Decision: 28.01.2025

Per: S.K. MOHANTY

The applicants-appellants have filed these miscellaneous applications, seeking for early hearing of appeals on the ground that the issue in dispute is already covered by the order of the Tribunal and the judgment of Hon'ble Bombay High Court in similar matters. Learned AR also agrees with the plea made by the learned Advocate, that the issue is covered by the orders passed by the Tribunal in other cases. Accordingly, prayer made by the learned Advocate for early hearing of these appeals is allowed and with the consent of both sides, these appeals are being taken up for hearing and disposal today.

2. This batch of appeals were directed against the Order-in-Appeal No. 315-346/Gr.V/VB/VI)/2022(JNCH)/Appeals dated 28.04.2022 (for short, referred to as, "the impugned order"), passed by the learned

Commissioner of Customs (Appeals), Mumbai-II, in upholding the assessment orders passed by the Original authority in respect of 32 numbers of Bills of Entry (B/Es). In support of the case of the department, the learned Commissioner (Appeals) has held that even when Basic Customs Duty is debited through Merchandise Exports from India Scheme (MEIS), the Social Welfare Surcharge is not exempted and has to be levied and collected on the imported goods.

3. The issue involved in the present appeals for consideration by the Tribunal is, whether Social Welfare Surcharge (SWS) is required to be paid in cash in respect of import of goods, which are fully exempt from payment of Basic Customs Duty (BCD) through Notification No. 24/2015-Customs dated 08.04.2015 issued by the Central Government under Section 25(1) of the Customs Act, 1962. It is an admitted fact on record that the appellants had paid the SWS in cash under protest at the time of importation of subject goods.

4. We find that the issue arising out of the present dispute is no more *res integra*, in view of the judgement dated 15.11.2022 delivered by the Hon'ble Bombay High Court in the case of *LA TIM Metal & Industries Limited Vs. The Union of India and Ors.* in W.P. No.12183 of 2022. In the said judgement, the Hon'ble High Court have held that though SWS is payable at 10% on BCD, but where the BCD is 'Nil', then SWS shall also be computed as 'Nil'. For arriving at such conclusion, the Hon'ble High Court have also relied upon and referred to the Circular No. 3/2022-Cus. dated 01.02.2022 issued by the Central Board of Indirect Taxes & Customs (CBIC), clarifying that the amount of SWS payable would be 'Nil', in the cases where the aggregate customs duties is 'zero', even though the SWS is not exempted. The relevant paragraphs in the judgement dated 5.11.2022 (*supra*) are extracted herein below:

"2. Petitioner is a trader engaged in trading of colour coated coils and profile sheets. Petitioner filed Bill of Entry No.6532249 dated 18th January 2020 and Bill of Entry No. 2485287 dated 17th September 2022. Petitioner thereafter also filed 12 other Bills of Entry referred to in paragraph no.9 of the petition. It is petitioner's case that in each of the

Bill of Entry, petitioner claimed and was allowed exemption under Notification No. 24/2015-Customs dated 08.04.2015. The proper officer assessed zero/nil Basic Customs Duty (BCD) and Additional Customs Duty (ACD). The proper officer, however, notionally assessed SWS, i.e., Social Welfare Surcharge and collected amount in cash from petitioner.

.....

6. Mr. Mishra also relied upon the Circular dated 10th January 2020. Mr. Shah submitted and rightly says after those judgments and the circular relied upon by Mr. Mishra the Department of Revenue (Tax Research Unit), Ministry of Finance, Government of India had issued Circular dated 1st February 2022 where it has clarified that where the SWS applied is at percentage of the aggregate of customs duty payable on import of goods and not on the value of imported goods, the SWS shall be computed on the percentage of value equal to Nil (as aggregate amount of customs duty payable is zero). For ease of reference, the Circular dated 1st February 2022 is scanned and reproduced herein below :-

.....

7. Mr. Mishra also submitted that petitioner's claim about assessment and recovery of amounts in the guise of Social Welfare Surcharge on the goods cleared without payment of BCD is factually incorrect as BCD was chargeable at 7.5% on the goods imported and the same was paid/debited by using the Merchandise Export from India Scheme (MEIS) Scrips issued under Notification No.24/2015-Customs dated 08.04.2015. In response Mr. Shah relied upon General Exemption No.162 by which the Central Government, exercising its powers under Section 25 of the Customs Act, has exempted goods when imported into India against duty credit scrip from the whole of the customs duty leviable thereon and the whole of the additional duty leviable thereon under the Customs Tariff Act. The fact that the goods imported under the concerned Bill of Entry has been cleared with Nil BCD is not disputed.

8. Therefore, in our view if the SWS is payable at 10% on BCD but where the BCD is Nil, SWS shall also be computed Nil."

5. We also find that the Customs department had filed a Review Petition against the above judgement dated 15.11.2022, which was dismissed by the Hon'ble Bombay High Court vide judgement dated 21.06.2024. Thus, the matter arising out of the present dispute regarding payment of SWS, in case where the BCD amount is 'Nil', has attained finality and is no more open for any debate. Further, by relying upon the judgement of Hon'ble Bombay High Court in *LA TIM Metal & Industries Limited* dated 15.11.2022 (supra), this Tribunal in

the case of the present appellants, for different period has allowed the appeals vide Orders dated 21.02.2023 and 30.08.2023.

6. In view of the foregoing discussions, the impugned order dated 28.04.2022 is set aside and the appeals are allowed in favour of the appellants, with consequential benefits, if any, as per law.

(Order pronounced in open court on 28.01.2025)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

SM