CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 87059 OF 2022

[Arising out of Order-in-Appeal No: 661(CRC-I)/2022(JNCH)/Appeals dated 30th June 2022 passed by the Commissioner of Customs (Appeals), Mumbai – II.]

Etin Impex Pvt Ltd
446 Majith Mandi, Amrtisar – 143001 Punjab … ***Appellant***

versus

Commissioner of Customs (NS-III)
Jawaharlal Nehru Customs House, Nhava Sheva
Tal: Uran, Dist: Raigad - 400707 ***…Respondent***

APPEARANCE:

Shri Devraj Kansara, Advocate for the appellant

Shri Krishna Azad, Assistant Commissioner (AR) for the respondent

CORAM:

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

FINAL ORDER NO: 85964/2025

DATE OF HEARING:	16/05/2025
DATE OF DECISION:	16/05/2025

The limited issue in this appeal of M/s Etin Impex Pvt Ltd, against order[1] of Commissioner of Customs (Appeals), Mumbai – II, is that claim for refund of 'special additional duty (SAD)', for ₹ 2,08,892, on imports effected against bill of entry no. 8990542/

[1] [order-in-appeal no. 661(CRC-I)/2022(JNCH)/Appeals dated 30th June 2022]

22.03.2017 and no. 9201013/16.04.2017 had been rejected by the original authority for failure to produce required documents and that the first appellate authority had also rejected claim for entitlement without hearing them in person.

2. According to Learned Counsel for the appellant, the original authority had failed to place them on notice against any deficiency in their application and that the first appellate authority, while upholding the order of rejection, did not consider their submission on such failure to be placed on notice.

3. We have heard Learned Authorized Representative.

4. It is seen from the impugned order that

> *'8. The appellant claimed that due to COVID-19 pandemic and they are Delhi based, they could not file any reply/documents and attend personal hearing given by the OA. However, I find that due to the outbreak of pandemic Covid-19, the CBIC issued guidelines for conducting personal hearing in virtual mode through video conference. It is observed that following the principles of natural justice three Deficiency cum Personal Hearing Memos were issued to the appellant to appear for personal hearing regarding deficiency/discrepancies on 08.06,2020, 23.06.2020 and 06.07 2020 before AC/SAD through video conference. Hence, I observe that if all the requisite documents were in position with appellant, the appellant would have forwarded it through ernail and attended the personal hearing through video conference. It is also observed that further, submissions made by the appellant vide letter dated 18.05.2022*

> *did. not contain" all the documents which were mentioned in the Deficiency Memo. I also observe that the appellant even did not submit any documents proving that he has requisite documents in his possession. Hence, in my opinion it is not feasible to send the said matter back to the OA.'*

5. It is apparent that, in the circumstances of the application for refund having been filed on 1st March 2018 and the matter taken up for disposal only in July 2020 when 'lockdown restrictions' were in place, the disposal thereof by the first appellate authority, in June 2022, even as the circumstances had not altered much, the submission of appellant that they are in possession of relevant documents which they were ready to furnish for evaluation, merited appreciation.

6. Considering the peculiar circumstances, and the submission made by the Learned Counsel for the appellant, it would be appropriate, and in the interest justice, to set aside the impugned order and restore the refund claim before the original authority for disposal after giving an opportunity to the appellant to furnish supporting documents and be heard in person.

7. Appeal is accordingly, disposed off by way of remand.

(Operative part of the order pronounced in the open court on 16th May 2025)

(C J MATHEW)
Member (Technical)

**/as*