CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH, MUMBAI

Customs Appeal No. 86867 of 2024

[Arising out of Order-in-Appeal No. 645 TO 646(GR. IV)/2024(JNCH)/Appeals dated 30.04.2024 passed by the Commissioner of Customs (Appeals), JNCH, Nhava Sheva, Mumbai-II.]

M/s White Rock Industries Ltd. ....Appellant
Block No. 296, Plot No. 8,
Village Tantithhaiya, Taluka
Palsana, Surat, Gujarat – 394 315

VERSUS

Commissioner of Customs, Nhava Sheva-III ....Respondent
Jawaharlal Nehru Customs House,
Nhava Sheva, Tal. Uran,
Dist. – Raigad, Maharashtra – 400 707

APPERANCE:

Shri Anil Balani, Advocate for the Appellant
Shri C.S. Vinod, Assistant Commissioner, Authorised Representative for the Respondent

CORAM:

HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO. 85997/2025

Date of Hearing: 04.06.2025
Date of Decision: 30.06.2025

Order for absolute confiscation of goods namely "Light Melting Steel Scrap"under Section 111(d) of the Customs Act, 1962 imported by the Appellant *vide* Bill of entry dated 08.08.2023 with imposition of redemption fine of ₹60,000/- only for re-export under Section 125 of the Customs Act alongwith penalty of ₹1,70,000/- under Section 112(a) and penalty of ₹5,000/- on the Customs Broker that was passed by the Additional Commissioner of Customs, JNCH, Nhava Sheva and affirmed by the Commissioner of Customs (Appeals) on the ground that Pre-Shipment Inspection Certificate (PSIC) in terms of para 2.51 of the Handbook of Procedure prescribed under Foreign Trade Policy, 2023 has not been furnished in compliance to Board Circular No. 48/2016 read with DGFT Trade Notice No. 19/2017. The said order has been assailed by the Importer-Appellant in this appeal.

2. I have heard submissions from both sides. Leaned Counsel for the Appellant Mr. Anil Balani submitted that though both Adjudicating Authority and Commissioner (Appeals) have passed the above referred order, as could be seen from there detailed order Appellant had made submissions before both the Authorities that goods could be examined by experts in its totality (100%) at the behest of Customs Department and if found fit, can be cleared for home consumption but despite recording the submissions of Appellant, no such order was passed for which order for confiscation and re-export with redemption fine without physical examination of goods can be held to be improper. In citing decisions of this Tribunal in the case of *M/s. Gujarat Pickers Inds. Ltd. reported as 2006 (3) TMI 479 – CESTAT, New Delhi, M/s. Senor Metals Pvt. Ltd. reported as 2008 (8) TMI 238 – Gujarat High Court, M/s Arun Vyapar Udyog Ltd. reported as 2009 (10) TMI 930 – CESTAT Chennai, M/s. NGA Steels Pvt. Ltd. reported as 2009 (10) TMI 804 – CESTAT, Chennai*, learned Counsel for the Appellant further submitted that there are numerous decisions available on the issue where PSIC was not available at the time of importation of goods but goods were

subsequently subjected to inspection followed by appropriate decisions.

3. Per contra, learned Authorised Representative for the Respondent-Department Mr. C.S. Vinod opposed such inspection to be conducted on shield containers since the purpose of furnishing PSIC to the Customs was to give a declaration that the consignment dod not contain any type of arms, ammunition, mines, shells, cartridges, or any other explosive material and to check the radiation level also and therefore, opening such a container without a Pre-Shipment Inspection Certificate would be hazardous to the Experts inspecting the goods.

4. Such a submissions seems to be valid but since the articles are kept with Customs Authorities possibilities of any explosion that would cause more hazard affecting officials and staff of Customs cannot be ruled out. Examination of the goods imported with adequate precaution would not only provide safety, in the absence of which it would otherwise endanger life. but it would also help the proper officer to take a decision on the fate of imported goods if fit for home consumption or required to be re-exported. Hence, in carrying forward the judicial precedent set by this Tribunal, as referred above, the following order is passed.

THE ORDER

4. The appeal is allowed and the order passed by the Commissioner of Customs (Appeals), JNCH, Nhava Sheva, Mumbai-II *vide* Order-in-

Appeal No. 645 TO 646(GR. IV)/2024(JNCH)/Appeals dated 30.04.2024 is hereby set aside. Since it is a live consignment, Respondent-Department is directed to get it inspected through Expert agency at the cost of importer and render its decision within three months of receipt of this order.

(Order pronounced in the open court on 30.06.2025)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

Prasad