CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 86233 OF 2014

[Arising out of Order-in-Appeal No: 130(Gr.IV)/2014(JNCH)/ IMP-129 dated 16th January 2014 passed by the Commissioner of Customs (Appeals), Mumbai – II.]

Talbros Automotive Components Ltd
F II Block, Plot No. 68, MIDC Pimpri
TELCO Material Gate Road, Pune – 411018 … ***Appellant***

versus

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

APPEARANCE:

Ms Madhura Khandekar, Advocate for the appellant

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

CORAM:

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

FINAL ORDER NO: 86004/2025

DATE OF HEARING:	08/05/2025
DATE OF DECISION:	08/05/2025

PER: C J MATHEW

This appeal of M/s Talbros Automotive Components Ltd, against order[1] of Commissioner of Customs (Appeals), Mumbai – II

[1] [order-in-appeal no. 130(Gr.IV)/2014(JNCH)/ IMP-129 dated 16th January 2014]

upholding assessment in bill of entry no.9015203/14.01.2013 for clearance of 'rubber coated stainless steel SS 301' in which burden of notification no. 01/2013-Cus dated 4th January 2013, applicable to imports from Peoples Republic of China, was enforced against goods that were claimed to be from Germany. The first appellate authority did not go into the merits of the claim of non-applicability of the said 'safeguard duty' and rejected the appeal solely on the ground that 'self-assessment', under section 17(1) of Customs Act, 1962, could not be challenged under section 128 of Customs Act, 1962.

2. We have heard Learned Counsel for the appellant and Learned Authorized Representative.

3. It would appear that the importer, in filing the impugned bill of entry, had inadvertently discharged liability of 'safeguard duty' and, noticing the error, filed appeal against the said assessment. According to Learned Counsel, the appellant had also sought 're-assessment/amendment' under section 149 of Customs Act, 1962 *vide* letter dated 6th February 2013 which is yet to be disposed off. He placed reliance on the decision of the Hon'ble High Court of Bombay in *Dimension Data India Pvt Ltd v. Commissioner of Customs []2021 (376) ELT 192 (Bom.)]* as support for disposal of their application for amendment. He also placed reliance on the decision of Hon'ble Supreme Court in *ITC Ltd v. Commissioner of Central Excise,*

Kolkata – V [2019 (368) ELT 216 (SC)] holding that self-assessment, being assessment, was challengeable under section 128 of Customs Act, 1962. Reliance is also placed on the decision of the Tribunal in *H & R Johnson (India) v. Commissioner of Customs (I), Nhava Sheva [2019 (11) TMI 71 – CESTAT MUMBAI]* and in *Cipla Limited v. Commissioner of Customs, ACC, Mumbai [final order*[2] *disposing off appeal*[3] *against order*[4] *of Commissioner of Customs (Appeals), Mumbai – III]* cited by the Learned Counsel.

4. It is apparent that the first appellate authority had not decided the appeal on merits but solely on the ground that ‘self-assessment’ could not be challenged. It is settled law that ‘self-assessment’ is also challengeable. In view of this, it would be appropriate to set aside the impugned order and remand the matter back to first appellate authority for fresh decision on merits and, after taking into account such circumstances, as may be pleaded by the appellant.

5. Appeal allowed by way of remand.

(Operative part of the order pronounced in the open court on 8th May 2025)

(AJAY SHARMA)
Member (Judicial)

(C J MATHEW)
Member (Technical)

**/as*

[2] [no. A/85680/2024 dated 10th July 2024]
[3] [customs appeal no. 89976 of 1014]
[4] [order-in-appeal no. MUM-CUSTM-AXP-APP-309/14-15 dated 21.08.2014]