CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 85545 of 2015

(Arising out of Order-in-Original No. CAO/CC/AKG/04/2014 ADJN(X), ACC dated 29.11.2014 passed by the Commissioner of Customs (Export), Air Cargo Complex, Mumbai)

M/s Advani Hotels & Resorts India Ltd **.... Appellant**
18A & 18B Jolly Maker Chamber-II,
Nariman Point, Mumbai – 400 021

Versus

Commissioner of Customs (Export), ACC Mumbai **.... Respondent**
Air Cargo Complex, Sahar, Andheri East,
Mumbai – 400 099

WITH

Customs Appeal No. 85546 of 2015

(Arising out of Order-in-Original No. CAO/CC/AKG/04/2014 ADJN(X), ACC dated 29.11.2014 passed by the Commissioner of Customs (Export), Air Cargo Complex, Mumbai)

Advani Pleasure Cruise Co. Pvt. Ltd. **.... Appellant**
18A & 18B Jolly Maker Chamber-II,
Nariman Point, Mumbai – 400 021

Versus

Commissioner of Customs (Export), ACC Mumbai **.... Respondent**
Air Cargo Complex, Sahar, Andheri East,
Mumbai – 400 099

AND

Customs Appeal No. 85547 of 2015

(Arising out of Order-in-Original No. CAO/CC/AKG/04/2014 ADJN(X), ACC dated 29.11.2014 passed by the Commissioner of Customs (Export), Air Cargo Complex, Mumbai)

Mr. Haresh Advani **.... Appellant**
18A & 18B Jolly Maker Chamber-II,
Nariman Point, Mumbai – 400 021

Versus

Commissioner of Customs (Export), ACC Mumbai **.... Respondent**
Air Cargo Complex, Sahar, Andheri East,
Mumbai – 400 099

APPEARANCE:

Shri Gopal Mundhra a/w Ms. Trinayani Iyer, Advocates for the Appellants
Shri L.B. D'costa, Authorized Representative for the Respondents

CORAM:

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

FINAL ORDER NO. A/85784-85786/2026

Date of Hearing: 06.04.2026
Date of Decision: 06.04.2026

PER: S.K. MOHANTY

Heard both sides and examined the case records.

2. Denial of the benefit of duty exemption provided under Notification No. 49/2000-Cus. dated 27.04.2000 on import of capital goods, is the subject matter of the present dispute.

3. Briefly stated, the facts of the case are that the appellant M/s Advani Hotels & Resorts India Ltd., was awarded a gaming license for slot machines under the Goa, Daman & Diu Public Gambling Act, 1976. For carrying out such purpose, the appellant had made the application to the Ministry of Surface Transport, New Delhi seeking permission to import a second-hand offshore vessel, which was duly approved and the appellant was permitted to import the said vessel. Thereafter, the appellant pursued with the authorities in the Government of Goa, seeking permission to install Casino equipment onboard the vessel and for permission to construct a floating jetty/pontoon outside the hotel premises, which were duly approved and requisite licenses were issued by the authorities. One M/s Ramada Hotels India Limited had applied for the license under the Export Promotion Capital Goods (EPCG) scheme before the Director General of Foreign Trade (DGFT) authorities, seeking import of Casino and other equipment, which was duly considered and the EPCG license bearing No.0330000336/2/11/00 dated 01.06.2000 was issued, permitting import of various capital goods including casino equipment. The name of the original license holder in the said EPCG license was amended on 25.06.2000 by DGFT, duly incorporating the name of the appellant therein. Pursuant to the license issued by the DGFT, the appellant had imported the capital goods at concessional rate of customs duty. However, due to operational and safety-related constraints, including naval restrictions, the actual place of installation as per the license was shifted to another location and for effecting the change in the license with regard to new address, the appellant had made a representation to the DGFT. The letter dated 04.01.2002 of the appellant was favourably considered by DGFT and the original license was amended on 17.01.2002, incorporating the changed address of the installation of the equipment at Panaji Jetty, Panaji, Goa. Since the place of installation as per the original license dated

01.06.2000, was changed and the imported goods were installed at some other location, the Department had proceeded against the appellant for denying the benefit of exemption provided under the notification dated 27.04.2000. The Department had contended that the imported goods were not installed at the resort as per the original EPCG license issued by the DGFT and that the goods were not put to the actual user condition. The show-cause proceedings initiated in this regard, were adjudicated vide Order-in-Original dated 29.11.2014 (impugned herein), wherein the original authority had denied the benefit of notification dated 27.04.2000, and resultantly, confirmed the differential customs duty, confiscated the imported goods, imposed fine & penalties on the appellants and others. Feeling aggrieved with the impugned order dated 29.11.2014, the appellants have preferred these appeals before the Tribunal.

4. It is an admitted fact on record that pursuant to the EPCG license dated 01.06.2000 and subsequent amendments made therein on 25.06.2000 and 17.01.2002 by the DGFT authorities, the subject goods were imported by the appellant and installed in the approved premises for achieving the export obligation. Under the Foreign Trade Policy (FTP), the authorities in the DGFT are empowered to amend and regularize changes in the EPCG license. In the case in hand, since on an objective and subjective satisfaction of the actual place of installation and operation through the subsidiary, the license got amended by the competent authority i.e., DGFT, the said amendments cannot be questioned by the Customs department. It is an undisputed fact that the appellant had achieved the export obligation pursuant to the EPCG license issued to them and the same was also duly redeemed by DGFT upon fulfillment of the requisite conditions. Since, the competent authorities in the DGFT had never questioned the fact regarding change of name and location of the installation, the customs department, in our considered opinion is bound by the license issued or amended by the DGFT. The law is well settled in the case of *Atul Commodities Pvt. Ltd. Vs. Commissioner of Customs, Cochin* – 2009 (235) E.L.T. 385 (S.C.), that if the officers in the customs department had any doubt with regard to the interpretation of the provisions of the FTP, then the said question or doubt shall be referred to the DGFT, whose decision thereon shall be final and binding. Since, the entire issues of change in name of license holder and actual place of installation of the equipment were regularized by the DGFT under the FTP, subsequent action on the part of the customs department, seeking confirmation of the duty demand by denial of the duty exemption cannot

be sustained. In this case, the change in the location of the installation of the equipment occurred due to Naval and safety constraints, which were beyond the appellant's control. However, since appreciating the genuine difficulties, the licensing authorities i.e., DGFT had amended the license, in our considered opinion, the alleged breach of the conditions of notification stood fully cured. In this context, the Tribunal in the case of *Thiagarajar Mills Ltd. Vs. Commissioner of Customs, Trichy* – 1999 (111) E.L.T. 288 (Tribunal) and in the case of *Bellar Steels and Alloys Ltd. Vs. Commissioner of C. Ex. Belgaum* – 2000 (126) E.L.T. 684 (Tribunal), has held that once DGFT grants approval for change of location, where the equipment is to be installed under EPCG scheme, the customs department cannot allege violation of the licensing conditions.

5. In view of the foregoing discussions, we do not find any merits in the impugned order, insofar as it has denied the benefit of duty exemption provided under the Notification dated 27.04.2000 and confirmed the adjudged demands on the appellants. Therefore, the impugned order is set aside and the appeals are allowed in favour of the appellants.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha