CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 86625 of 2015

(Arising out of Order-in-Appeal No. MUM-CUSTM-SMP-97,98,99,100,101/2015-16 dated 08.07.2015 passed by the Commissioner of Customs (Appeals), Mumbai – I.)

Ghevaarchand Udaychand Jain **.... Appellant**
Partner of M/s. M.K. Steel Centre,
20/21 Labh Niwas, 136, Nanubhai Desai Road,
Mumbai – 400 004.

Versus

Commissioner of Customs (Import), Mumbai **.... Respondent**
New Custom House, Ballard Estate,
Mumbai – 400 001.

And

Customs Appeal No. 86626 of 2015

(Arising out of Order-in-Appeal No. MUM-CUSTM-SMP-97,98,99,100,101/2015-16 dated 08.07.2015 passed by the Commissioner of Customs (Appeals), Mumbai – I.)

Hitesh Bhanwarlal Sanghvi **.... Appellant**
301, Vastu Shilp Apartment, Gamadia Colony,
Tardeo, Mumbai – 400 034.

Versus

Commissioner of Customs (Import), Mumbai **.... Respondent**
New Custom House, Ballard Estate,
Mumbai – 400 001.

With

Customs Appeal No. 86627 of 2015

(Arising out of Order-in-Appeal No. MUM-CUSTM-SMP-97,98,99,100,101/2015-16 dated 08.07.2015 passed by the Commissioner of Customs (Appeals), Mumbai – I.)

M/s MK Steel Centre **.... Appellant**
20/21 Labh Niwas, 136, Nanubhai Desai Road,
Mumbai – 400 004.

Versus

Commissioner of Customs, Mumbai General **.... Respondent**
New Custom House, Ballard Estate,
Mumbai – 400 001.

APPEARANCE:

Ms. Kiran Doiphode, Advocate for the Appellant

Shri Krishna Azad, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/86183-86185/2026

Date of Hearing: 16.09.2026

Date of Decision: 16.09.2026

Per: Ajay Sharma

These appeals have been filed by the appellants against the impugned Order-in-Appeal dated 08.07.2015 passed by the Commissioner of Customs (Appeals), New Custom House, Mumbai-I, whereby the learned Commissioner (Appeals) by upholding the Order-in-Original dated 15.05.2014 had rejected the appeals filed by the appellants.

2. We have heard learned Counsel appearing for the appellant and learned Authorized Representative appearing for Revenue and perused the case records including the written submissions and the case law relied upon by the learned Counsel.

3. Learned Counsel for the appellant raised preliminary objection in submitting that the impugned Order-in-Appeal has been passed mechanically and is not a speaking one, as the same has failed to take into consideration the specific plea made by the appellant that the customs duty etc. has been deposited by them at the time of filing of Bills of Entry. In support of her submissions, learned Counsel drew our attention to the communication dated 21.12.2013 made by M/s M.K. Steel Centre to the Joint/Additional Commissioner of Customs (Import), NCH, Ballad Estate, Mumbai – 400 001 and copy to the Additional Director, DRI, Mumbai in replying to the show-cause notice dated 06.12.2013, wherein the following points were made for consideration of the said authorities. The said letter is extracted herein below: -

> *"i. We have paid the entire duty liability and interest, as demanded in the show cause notice issued by DRI and under serial*

no 9 on page no 7 it is mentioned that we have deposited Rs. 3,73,185/-.

ii. Sir, we would like state that improper classification of goods and non-payment of Additional Customs Duty is due to unintentional error.

iii. We do not want to contest the show cause notice.

iv. Therefore, as provided under Section 28(5) of the Customs Act, 1962, we are paying 25% penalty of the duty specified in the show cause notice i.e. Rs. 1,50,808.20.

v. We do not want any personal hearing in the matter.

vi. We have voluntarily deposited Rs. 3,73,185/- towards our duty liability. We request you to kindly adjust 25% amount against our deposits along with duty demand of Rs. 1,50,808.20. Refund the balance amount together with Bank Guarantee duly cancelled.

In view of the above it is prayed that the proceeding in respect of the show cause notice may be concluded as stipulated under Section 28(6) (i) of the Customs Act, 1962".

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4. While going through the case records, we find that neither the adjudicating authority nor the first appellate authority has considered the aforesaid communication made by the appellant. Had they taken note of it, the same might help in reducing the pendency of litigation before this Tribunal. In support of her submission, learned Counsel has referred two decisions passed by this Tribunal in the matter of *Honda Cars India Ltd. Vs. Principal Commissioner of Customs, New Delhi -2025 (391) ELT 132 (Tri-Del)* and *JS Steel Trades Vs. Commissioner of Customs, Ludhiana – 2022 (380) ELT 483 (Tri-Chandigarh)* and prayed that the same order may be passed in the instant appeal as well.

5. The communication dated 21.12.2013 (supra) has been heavily relied upon by the learned Counsel while making the preliminary submissions, as the same being a reply to the show-cause notice. However, it has not been considered by the learned Commissioner (Appeals) while passing the impugned order. Therefore, without going into the merits of the appeal, we are inclined to set aside the impugned order and remand the matter back to the learned Commissioner (Appeals) with a direction to pass the order afresh after referring to the aforesaid communication (supra) and the case laws as cited herein above (supra). The appeal is, therefore, allowed by way of remand.

6. Since this is an old appeal relating to importation during November, 2010, therefore, we hope and trust that the learned Commissioner shall decide the appeal within a period of three months from the date of receipt of this order.

(Dictated and pronounced in open court)

(AJAY SHARMA)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha