CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD

Division Bench – Court No. – I

Customs Appeal No. 23062 of 2014
(Arising out of Order-in-Original No. GUN-EXCUS-000-COM-019-14-15 dt.30.05.2014 passed by Commissioner of Customs, Central Excise & Service Tax, Guntur)

M/s RB Seth Shreeram Narsingdas
D.No.1499/1, PO Box No.38, Karignur (P),
Hospet, Bellary, Karnataka – 583 201 **.....Appellant**

VERSUS

Commissioner of Customs
Vijayawada
D.No.55-17-3, 2nd Floor, C-14, Road No.2,
Industrial Estate, Vijayawada, AP – 520 007 **.....Respondent**

Appearance
Shri Lakshman Kumar & Shri Srimannarayana, Advocates for the Appellant.
Shri B. Subhas Chandra Bose, AR for the Respondent.

Coram: **HON'BLE MR. A.K. JYOTISHI, MEMBER (TECHNICAL)**
HON'BLE MR. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30279/2026

Date of Hearing: 21.01.2026
Date of Decision: 15.05.2026

[Order per: A.K. JYOTISHI]

M/s RB Seth Shreeram Narsingdas (hereinafter referred to as appellants) are in appeal against OIO dt.30.05.2014, whereby the Adjudicating Authority has confirmed the demand of Rs.85,11,972/- along with applicable interest and also imposed equivalent penalty (Impugned Order).

2. The issue, in brief, is that the appellants are engaged in export of iron ore fines/ lumps and had exported certain consignments during the period 2008-09 to 2011-12. At the time of export, bills were self-assessed declaring certain parameters like Fe percentage, moisture content and unit price. However, later on, when the department felt that these declarations were based on provisional invoice, they asked for final invoices and final analysis report from the exporter to ascertain whether the assessment made under section 17 was proper and correct or not. Thereafter, they scrutinized all the exported bills of entry and thereafter, noted that there are certain discrepancies between what was declared at the time of export and what

was noted at port of discharge. Therefore, SCN was issued asking them to explain as to why shipping bills cannot be re-assessed to duty in terms of section 17 of the Customs Act, 1972, by resorting to the set of facts as contained in final invoice and analytical reports at load/ discharge port and as to why duty cannot be demanded under section 28(4).

3. The adjudicating authority examined the submissions and, inter alia, held that iron ore fines and iron ore lumps in a mixture are to be subjected to appropriate custom duty under respective tariff items and hence, export goods cannot be treated as iron ore fines alone. On the issue of pending refunds, the Commissioner observed that the refund issue has to be decided by the concerned Deputy/ Assistant Commissioner and did not decide the issue of refund. Insofar as the issue of invocation of extended period, the adjudicating authority observed that department had, based on certain intelligence that the moisture content of the said consignments cannot be uniform at 8%, called for certain documents from exporter concerning the subject transaction and thereafter, only on receipt of the information like final invoice, weight and quality certificate issued at discharge port and chemical examiner's report, noticed that moisture content, Fe content and particles of over 10mm size were more than what was declared by the exporter at the time of export. Therefore, he held that shipping bills need to be reassessed and the declaration made at the time of export was not true declaration and therefore, extended period is invokable.

4. Learned Advocate for the appellant has contended that while on merit, most of these issues are settled by this Bench and therefore, the issues are no longer res integra.

5. On the other hand, learned AR has mainly submitted that in this case, though there is no provisional assessment, the re-assessment has been adopted by the department based on incorrect appreciation of facts and law. For the sake of convenience, he has submitted that the adjudicating authority has confirmed the demand of differential duty broadly on the following three counts.

A) Application of a higher rate of export duty by treating certain quantities of exported iron ore fines as iron ore lumps, thereby, attracting a higher rate of duty.

B) Redetermination of export duty based on Fe content and moisture percentage as determined by the Central Revenue Control Laboratory (CRCL) at the time of export, instead of adopting the parameters determined by the CIQ authorities at the discharge port.

C) Redetermination of export value by adopting the final invoice value and corresponding Bank Realization Certificates (BRCs), in place of the provisional invoice value.

6. He has further submitted that all these issues have been already examined by this Bench in the case of CC, Visakhapatnam Vs Arihant Tiles & Marbles Pvt Ltd & ors [Final Order No. A/30491-30506/2025 dt.21.11.2025] and in the case of Patnaik Minerals Pvt Ltd Vs CC, Visakhapatnam [Final Order No. A/30556/2025 dt.27.11.2025], wherein the Tribunal has held, as under.

a) Export consignments having mixture of certain percentage of Iron Ore lumps with predominantly Iron Ore fines cannot be separately segregated to apply different rates, as Iron Ore fines and Iron Ore lumps. Therefore, the entire consignment has to be treated as that of Iron Ore fines and the applicable rate of Iron Ore fines will be applicable for charging export duty.

b) On finalization of provisionally assessed shipping bills, based on final invoice and BRCs, there cannot be any redetermination of either export value as declared in the final invoice or quantity based on moisture percentage determined by CRCL lab.

c) The final assessment has to be made based on the final invoice duly supported by BRC.

7. Therefore, essentially, the final assessment has to be made on the actual realized value reflected in the final invoice and supported by BRC, so long as there is no allegation or evidence of receipt of any additional consideration or the invoice being not genuine. He has further submitted that appellant initially adopted provisional invoice value for the purpose of assessment, however, in the light of settled legal position, the assessable vale has to be determined on the basis of final invoice value duly supported by BRCs and not on provisional invoice. He has also pointed out that BRCs have been furnished only in respect of certain consignments and even in

such cases, it only evidences realization of only 95% of the final invoice value and not the entire invoices amount.

8. Heard both sides and perused the records.

9. We find that in this case, the appellants had exported certain Iron Ore consignments under self-assessment and admittedly, there was no provisional assessment either asked for by the appellant or resorted to by the department. The department only based on certain apprehension that they had misdeclared certain parameters like moisture content, Fe content, etc., called for certain details, which showed variation between what was declared and what was noted at the time of discharge and in terms of CIQ report. It was also noted that total BRC amount was not tallying with invoice amount. Essentially, on the issue of whether in the case of re-assessment, the department can resort to various other information, which came to their knowledge subsequently and demand differential duty, we find that they can rely on additional documents, which are relevant and also indicating wrong declaration at the time of export covered under self-assessed shipping bills. However, while working out the differential duty, the settled principle has to be taken into account. Insofar as issue of export of mixture of Iron Ore fines and certain amount of lumps, this Bench has already taken a view that entire consignment has to be treated as that of Iron ore fines by relying on Rule 3(b) of General Rules of Interpretation as held in the case of Daksh Minerals & Marine Pvt Ltd Vs CCT, Guntur-GST [2024 (5) TMI 1155 – CESTAT Hyderabad] and subsequently, in other judgment in the case of CC, Visakhapatnam Vs Arihant Tiles & Marbles Pvt Ltd & ors (supra).

10. Insofar as the issue of percentage of moisture and Fe content as per CIQ report to be considered or otherwise, we find that said percentage as per CIQ report may have to be considered as this being a case of self-assessment based on provisional invoice, where neither party was sure about the moisture content or Fe content. However, we note that in this case, the department has relied on moisture and Fe contents as per CIQ report and it has also been admitted that there is a contract, which requires determination of Fe content at the discharge port. Thus, moisture and Fe content have to be accepted. In this regard, we find that similar view has been taken by this Bench and the Coordinate Bench in the following judgments.

a) Jagwani Projects (P) Ltd Vs CC, Bhubaneswar [2025 (5) TMI 2012 – CESTAT Kolkata]
b) Bonai Industrial Company Pvt Ltd Vs Commissioner [2024 (6) TMI 1016 – CESTAT Hyderabad]
c) Terapanth Foods Ltd Vs Commissioner [2024 (4) TMI 248 – CESTAT Hyderabad]
d) Ore Cast India Vs Commissioner [2023 (10) TMI 757 – CESTAT Kolkata]

11. We also note that out of 10 shipping bills, they have claimed that in respect of 5 shipping bills, there was no duty liability at all in terms of Notification No.129/2008-Cus dt.07.12.2008, which remained in force till 24.12.2009. Insofar his submission that duty has to be demanded as per the final invoice and not based on what was declared, we find that though the fact remains that they have received the payment only in terms of BRC, however, it does not show that they have received the entire payment as declared at the time of export.

12. In this case, we find that there was enough ingredients to resort to provisional assessment, however, for the reasons best known to appellant as well as the department, the provisional assessment was not resorted to despite provisional invoice, as also provisional declaration of various parameters was furnished. Had it been the case of provisional assessment, this could have been decided based on various judgments of Coordinate Benches, however, in this case, because of the fact that export has taken place on finally assessed (self-assessed) shipping bills and therefore, any differential duty demanded would have to be decided on merit first to arrive at the conclusion whether they are otherwise demandable or not.

13. Various case laws cited in support of acceptance of BRC value for the purpose of discharge of export duty are distinguished as in all such cases, there was a contract permitting declaration of provisional value and final value based on variation in parameters including permitted tolerance, etc., to be decided based on CIQ report or other test at discharge port.

14. To sum up,

a) Mixed consignment of Iron ore fines and lumps has to be treated as that of Iron Ore fines and applicable rate of duty has to be applied.

b) For the moisture content, the declared moisture content is to be taken. However, variation in quantity due to moisture content variation has no significance when the duty is being charged on ad valorem basis.

c) Fe content would be taken as what has been declared at the time of export, as the assessment is final.

d) The BRC value, per se, will not be of any help as the amount declared has to be taken as the declared assessable value and hence in the facts of the case, BRC value cannot be adopted for arriving at the value.

e) Insofar as invocation of extended period and imposition of penalty, we find that Commissioner has highlighted the facts as to why in the facts of the case, extended period is invokable. There is clearly misdeclaration at the time of export in respect of certain parameters, which came to the knowledge of the department only when the final invoice or other relevant reports of discharge port were submitted to them. Therefore, at the time of export, by resorting to final assessment (self-assessment), whatever declarations were made were not correct assessment and thus, there was deliberate withholding of information of the fact that invoices were provisional or it is subject to certain variation in terms of contract, etc. Hence, we do not find any infirmity in the order upholding the invocation of extended period as well as imposition of penalty.

15. In view of the above, the matter is remanded back to the Adjudicating Authority to redetermine the amount of differential duty, if any.

16. Appeal allowed by way of remand.

(Pronounced in the Open Court on 15.05.2026)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

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