**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**
**CHENNAI**

REGIONAL BENCH - COURT No. I

## Customs Appeal No.42320 of 2015

(Arising out of Order-in-Appeal C.Cus II No.631/2015 dated 30.06.2015passed by Commissioner of Customs (Appeals-II), Chennai)

**M/s. Bagadia Brothers** **.... Appellant**
No.1076, 2nd Floor, 18th "A" Main,
66th Cross, Rajajinagar,
Bangalore-560 010.

*VERSUS*

**Commissioner of Customs (Appeals-II) ... Respondent**
No.60, Rajaji Salai,
Custom House,
Chennai-600 001.

**APPEARANCE:**

Shri Deepak P Shah, Authorized Representative for the Appellant
Ms. Rajni Menon, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE MR. K. ANPAZHAKAN, MEMBER (TECHNICAL)**

## FINAL ORDER No.40550/2026

**DATE OF HEARING :22.04.2026**
**DATE OF DECISION :22.04.2026**

The present appeal has been filed by M/s. Bagadia Brothers (the appellant herein), against the impugned Order-in-Appeal No. 631/2015, dated 30.06.2015, wherein the refund of SAD claimed by the appellant was rejected. Aggrieved by the rejection of the refund of SAD, the appellant has filed this appeal.

2. The facts of the case are that the appellant has imported "CRNGO steel sheets in Coils" on payment of 4% Additional Duty of Customs (SAD). Subsequently, the appellant sold part of the goods through Consignment Agent on payment of VAT and filed a refund claim for the refund of the SAD paid at the time of import. The Lower Authorities found that the sales invoices issued by the 'Consignment Agent' and subsequently sold by M/s. Vardhaman Udyog, New Delhi did not indicate the details as required under para 2(viii) of the Board Circular No. 16/2008, dated 13.10.2008. Accordingly, the refund claim filed by the appellant came to be rejected.

3. The Ld. Counsel for the appellant submits that the appellant have sold part consignment through the consignment agent, which has been subsequently sold by M/s. Vardhaman Udyog, New Delhi, vide sales invoices No. 1 to 8 all dated 08.04.2013. He submits that as the SAD payment was not in dispute and the goods have been subsequently sold on payment of VAT, they are eligible for the refund of the SAD paid at the time of import. Thus, he prays for setting aside the impugned order and allowing the refund claimed by them.

4. The Ld. Authorized Representative appearing on behalf of the Revenue, submitted that the Board has issued circular No. 16/2008 dated 13.10.2008, specifying the procedure prescribed in respect of the refund of the SAD where sales are effected through the 'Consignment Agents'. It is submitted

that in the present case, the appellant did not comply with the requirements to identify that the same goods imported have been sold to M/s. Vardhaman Udyog, New Delhi. She submits that the Lower Authorities have verified the documents and rightly rejected the refund of the SAD paid by the appellant. She also submits that the appellant has not submitted the Chartered Accountant Certificates as required under the Board Circular No. 16/2008 dated 13.10.2008. Accordingly, she supports the impugned order rejecting the refund claim.

5. Heard both sides and perused the appeal documents.

6. I find that the appellant has imported CRNGO steel sheets in Coils on payment of 4% SAD at the time of import. Subsequently, the appellant raised sales invoices No. 423 to 429, all dated 27.03.2013 and sold part consignment through the consignment agent, which has been subsequently sold by M/s. Vardhaman Udyog, New Delhi, vide sales invoices No. 1 to 8 all dated 08.04.2013.

6.1. I find that the Board has issued Circular No. 16/2008 dated 13.10.2008 prescribing the procedure to be followed when the imported goods are sold through Consignment Agent and the refund of SAD has been claimed. For ready reference, the relevant part of the said Circular is reproduced below:

> *"In view of the above, it is clarified that in case of sale of imported goods by importer through consignment agent/stockist, refund of 4% CVD shall be granted by Customs field formations, subject to the condition that the Consignment agent/ stockist has been authorised*

> *to sell the Imported goods in terms of the agreement entered into between the importer and consignment agent/stockist and that each of the sale invoices issued by the consignment agent/stockist indicates that the sale is made by him on behalf of the Importer in the capacity of consignment agent/stockist. These conditions shall be verified by the Customs officers before sanction of 4% CVD refund claims in these cases. Further, in such cases, it is also required that the applicant submits a certificate from a Chartered Accountant appointed by the importer, who either certifies the importer's financial records under the Companies Act, 1956 or any ST/VAT Act of the State Government or the Income Tax Act, 1961, to the effect that appropriate ST/VAT has been paid by consignment agent/stockist on behalf of importer and that the importer, in turn, has paid or reimbursed the ST/VAT to his consignment agent/stockist along with the correlation of ST/VAT payment with 4% CVD paid on imported goods."*

6.2. From the above I find that when the goods are sold through 'Consignment Agents' who has been authorized to sell the imported goods in terms of an agreement, then each sale invoice issued by the 'Consignment Agent' should indicate that the sale is effected on behalf of the importer. This is a mandatory condition required to be verified by the Customs officer before sanctioning of the refund of 4% SAD. In the present case, I find that the invoice No. 423 to 429, dated 27.03.2013, raised by the appellant to the 'Consignment Agent' does not contain all these details as required by Circular No.16/2008 dated 13.10.2008. It was also found that the subsequent sales effected by M/s. Vardhaman Udyog, New Delhi, vide sales invoices No. 1 to 8 all dated 08.04.2013 also did not contain all those details as required by Circular No. 16/2008 dated 13.10.2008. During the course of the hearing, the Ld. Authorized

Representative appearing on behalf of the appellant also expressed his inability to produce the relevant invoice for perusal. I also find that the Chartered Accountant Certificate required to be produced at the time of filing the refund claim has not been submitted in this case. The Ld. Authorized Representative appearing on behalf of the appellant has also submitted that they are not in a position to submit a Chartered Accountant Certificate as the issue involved is very old. I find that the document submitted for claiming the refund does not indicate the connection between the goods imported and the sales effected through the invoices Nos.1 to 8, dated 08.04.2013. Thus, I find that the Lower Authorities have rightly rejected the refund claim as the appellant could not produce the documents as envisaged under the Circular No.16/2008 dated 13.10.2008. Hence, I do not find any infirmity in the impugned order rejecting the refund of SAD claimed by the appellant. Accordingly, I uphold the impugned order and reject the appeal filed by the appellant.

7. In the result, the appeal filed by the appellant is rejected.

(Order dictated and pronounced in the open court)

sd/-

**(K. ANPAZHAKAN)**
Member (Technical)

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