CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL HYDERABAD

Division Bench – Court No. – I

Customs Appeal No. 30653 of 2017

(Arising out of Order-in-Appeal No.VIZ-CUSTM-000-APP-112-16-17 dt.31.01.2017 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Visakhapatnam)

M/s Stork Ferro & Mineral Industries Pvt Ltd **.....Appellant**
Plot No.Z-1, IDCO, IID Centre, Somnathpur,
Remuna, Balasore, Odisha – 756 019

VERSUS

Commissioner of Customs Visakhapatnam - Cus **.....Respondent**
4th Floor, Customs House, Port Area,
Visakhapatnam, Andhra Pradesh – 530 035

Appearance
Shri J. Mohanty, Advocate for the Appellant.
Shri Ch. Venkat Reddy & Shri K. Raji Reddy, ARs for the Respondent.

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

FINAL ORDER No. A/30240/2026

Date of Hearing: 12.01.2026
Date of Decision: 22.04.2026

[Order per: ANGAD PRASAD]

M/s Stork Ferro & Mineral Industries Pvt Ltd (hereinafter referred to as the appellant) are in appeal against OIA dt.31.01.2017, whereby, the Commissioner (Appeals) has rejected the appeal filed by the appellant and denied them the benefit of exemption from payment of CVD in terms of S.No.04/2006-CE dt.01.03.2006 on the ground that imported goods are not 'Manganese Ores' as the said goods have undergone washing, removal of waste and sizing and therefore, are 'Manganese Concentrates'.

2. The brief facts of the case are that the appellants imported 'Manganese Ore' by classifying the same under Tariff item 2602 00 20. The appellants claimed clearance of the said goods without payment of CVD in terms of exemption Notification No.04/2006-CE dt.01.03.2006. The Bills of Entry were provisionally assessed in terms of section 18 of the Customs Act, 1962, pending submission of certain documents. Subsequently, the department proposed to finalize the assessment by levying CVD on the ground that the imported goods were 'concentrates' and not 'ores',

purportedly in view of Chapter Note 4 to Chapter 26 of Central Excise Tariff Act, 1985, introduced w.e.f. 01.03.2011. On adjudication, the Original Authority finalized the provisional assessment and held that imported goods are not ores but concentrates and hence not entitled for exemption under Notification 04/2006 and confirmed the recovery of CVD. Being aggrieved by the OIO, the appellants filed appeal before Commissioner (Appeals), who has upheld the OIO and confirmed the recovery of CVD, against which the appellants are in appeal before the Tribunal.

3. Learned Counsel for the appellant has mainly submitted that they had furnished all the requisite documents including contract, invoice, load port analysis, etc., and therefore, the appellants have duly discharged the evidentiary burden by demonstrating that the imported goods were manganese ore. Further, the process of crushing or sizing Manganese ore cannot be equated with concentration as such operations are routinely undertaken in the mining industry prior to delivery of ore to manufacturers and do not involve beneficiation. He has further submitted that it is a settled principle that the onus to prove that an item is taxable in the manner alleged lies on the department relying on the following judgments.

a) Hindustan Ferodo Ltd Vs CCE [1989 (16) ELT 16 (SC)]
b) UOI Vs Garware Nylon Ltd [1987 (12) ELT 12 (SC)]

4. Further, the appellant has relied on HSN explanatory notes to Chapter 26, which provides the meaning of the term ‘ore’ and ‘concentrate’. The relevant portion is as under.

> *“The term ‘ore’ applies to metalliferous minerals associated with the substances in which they occur and with which they are extracted from the mine; it also applies to native metals in their gangue (e.g. metalliferous sands).*
>
> *Ores are seldom marketed before ‘preparation’ for subsequent metallurgical operations. The most important preparatory processes are those aimed at concentrating the ores.*
>
> *For the purposes of headings 26.01 to 26.17, the term ‘concentrates’ applies to ores which have had part or all of the foreign matter removed by special treatments, either because such foreign matter might hamper subsequent metallurgical operations or with a view to economical transport.*
>
> *Processes to which products of headings 26.01 to 26.17 may have been submitted include physical, physico-chemical or chemical operations provided they are normal to the preparation of the ores for extraction of metal. With the exception of changes resulting from calcination, roasting*

or firing (with or without agglomeration), such operations must not alter the chemical composition of the basic compound which furnishes the desired metal.

The physical or physico-chemical operations include crushing, grinding, magnetic separation, gravimetric separation, flotation, screening, grading, agglomeration of powder (e.g., by sintering or pelleting) into grains, balls or briquettes (whether or not with the addition of small quantities of binders), drying, calcination, roasting to oxidise or magnetize the ore, etc., (but not roasting for purposes of sulphating, chloridating, etc.)"

5. Further, the learned Counsel has submitted that there is no evidence that the ore underwent any special treatment or beneficiation to improve its grade. The CBEC Circular No.332/1/2012-TRU dt.17.02.2012 clarified that crushing and screening of ores do not constitute special treatment and the product emerging therefrom cannot be treated as concentrate. In the present case, neither the overseas supplier nor the appellant undertook any special treatment and hence the goods remain 'manganese ore'.

6. He has further contended that adjudicating authority failed to draw samples or obtain any test report from a recognized laboratory to establish that the imported goods were 'concentrate' and the findings were based merely on assumption and technical literature, which cannot substitute factual evidence. In this regard, he has relied on the judgment of Coordinate Bench in the case of Tamil Nadu Newsprint & Paper Ltd Vs CCE, Tuticorin [2010 (253) ELT 153 (Tri)], wherein, it was held that if the department had any doubt, it should have conducted a test; in absence thereof, the importer's classification must prevail.

7. Learned Advocate has further submitted that CBEC circular explicitly distinguishes between 'ore' and 'concentrate' and is binding on departmental officers as per the ratio of Paper Products Ltd Vs CCE [1999 (112) ELT 765 (SC)]. Further, he has contended that Chapter Note 4 states that conversion of ore into concentrate amounts to manufacture. It does not deem every physical process as manufacture. The note presupposes that beneficiation or special treatment must occur. In the case of CCE Vs Ispat Chrome Ltd [2001 (134) ELT 236 (Tri-Kol)], Indian Rare Earths Ltd Vs CCE [2002 (139) ELT 352 (SC)] and JSW Steels Ltd [2024 (16) Centax 82 (Tri-Bom)], it was held that mere crushing, grinding or screening does not result in a new product. Hence, without evidence of beneficiation, the finding that the imported ore is concentrate is untenable.

8. On the other hand, learned AR has submitted that benefit of exemption notification has been rightly denied to the importer/appellant as the Manganese ores imported by them had admittedly undergone certain specified processes like washing, removal of waste, sizing, etc., as per the requirements of the appellant/importer. Further, in terms of provisions under Note 4 to Chapter 26, w.e.f. 01.03.2011, it provides that in relation to products of this chapter the process of converting ores into concentrate shall amount to 'manufacture'. He has further submitted that in any case of naturally occurring ores, a process of 'beneficiation' of preparation has to be carried out either to enrich the ore content by way of removal of foreign or unwanted elements, or to enrich metal content in the ore. Those processes can be physical, physio-chemical, etc., and includes processes like crushing, grinding, magnetic separation, screening, grading, etc. In view of the clear-cut deeming provisions, there is no need to conduct any test or analysis of the product in question. Thus, the onus of proving the eligibility for availing exemption under a notification lies with the importer as held in various judicial forums.

9. In this case, admittedly, the ore has been supplied in terms of contract and certain specifications stipulated by the appellants. It is not an ore in the form, which has emerged in the mine i.e., Run of Mine (ROM) Ore. There is also a clear finding of the adjudicating authority based on evidence on record that process of screening and sizing, etc., has been carried out on ROM ore before it is shipped to the appellants. Even crushing of ore and removal of overburden i.e., stone etc., has taken place. The issue is whether these are normal process or special process.

10. We find that similar issue has been dealt by this Tribunal in the case of M/s Sarda Energy & Minerals Ltd & Ors Vs CC, Visakhapatnam [Final Order No.A/30013-30016/2026 dt.09.01.2026], wherein, in the similar set of facts and admitted positions, it was held that the subject processes undertaken on ROM ore has resulted into emergence of concentrate, keeping in view the chapter note and HSN explanation, which is a distinct excisable goods in view of deeming provisions. The relevant paras in the Final Order of this Tribunal are reproduced below for ease of reference.

> *"21. We also find that in the case of CC, Nhava Sheva I, Mumbai Vs Malu Electrodes Pvt Ltd (supra), the Hon'ble Supreme Court, while examining the issue of chapter note 2 and chapter note 4 of Chapter 26,*

in the similar context, inter alia, held that the judgment of the Tribunal, against which the Revenue had come in appeal, has not considered the observations and the order of the Hon'ble Supreme Court in the case of M/s Star Industries Vs CC (Imports), Raigad (supra) at para 28, 29 & 31, which are cited below.

> *"28. According to us, it is very clear from the reading of the judgment in Hindustan Gas case that basic and the common thread which runs throughout the decision is that subjecting ore to the process of roasting does not amount to manufacture. This very basis gets knocked off with the amendment carried out in the year 2011 with the insertion of Note 4. Note 4 now categorically mentions that the process of converting ores into concentrates would amount to 'manufacture'. Therefore, it cannot now be argued that roasting of ores and converting the same into concentrates would not be manufacture. For the same reason, the judgment in MMTC becomes inapplicable and reliance upon Kirk-Othmer's Encyclopedia becomes irrelevant. With the addition of Note 4, a legal friction is created treating the process of converting ores into concentrates as manufacture. Once this is treated as manufacture, all the consequences thereof, as intended for creating such a legal friction, would automatically follow. Following shall be the inevitable implications :*

a) *It is to be treated that Molybdenum Ore is different from concentrate. That is inherent in treating the process as 'manufacture' inasmuch as manufacture results in a different commodity from the earlier one. Section 2(f) defines this term as under :*

> *"manufacture" includes any process, -*
>
> *(i) incidental or ancillary to the completion of a manufactured product;*
> *(ii) which is specified in relation to any goods in the Section or Chapter notes of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) as amounting to manufacture; or*
> *(iii) which, in relation to the goods specified in the Third Schedule, involves packing or repacking of such goods in a unit container or labelling or re-labelling of containers including the declaration or alteration of retail sale price on it or adoption of any other treatment on the goods to render the product marketable to the consumer."*

b) *The purpose of treating concentrate as manufactured product out of ores is to make concentrates as liable for excise duty. Otherwise, there was no reason to deem the process of converting ores into concentrates as manufacture.*

> *29. Once the aforesaid legal repercussions are taken note of, as a fortiori, it becomes obvious that Notification No. 4/2006-C.E. which exempts only ores would not include within itself 'concentrates' also because of the reason that after the insertion of Note 4, concentrate is to be treated as a different product than ores, in law for the purposes of products of Chapter 26.*
>
> *30. .....*
>
> *31. We, thus, are of the opinion that in the impugned judgment, the Tribunal has rightly arrived at the conclusion that by virtue of Note 4, concentrate has to be necessarily treated as different from ores which is deemed as manufactured product after Molybdenum*

Ores underwent the process of roasting. Once we keep in mind that conversion of ores into concentrate is considered as manufacture and, therefore, becomes liable for central excise levy, exemption Notification No. 4/2006-C.E. is to be interpreted in this light as the Legislature has intended to treat ores and concentrates as two distinct items and Notification No. 4/2006-C.E. exempts only 'ores', concentrates automatically falls outside the purview of said notification. It is rightly argued by the learned senior counsel for the Revenue that exemption notifications are to be construed strictly and even if there is some doubt, benefit thereof shall not enure to the assessee but would be given to the Revenue. This principle of strict construction of exemption notification is now deeply ingrained in various judgments of this Court taking this view consistently."

22. Thus, the ratio and the principle laid down by the Hon'ble Supreme Court in the case of M/s Star Industries Vs CC (Imports), Raigad (supra) has to be followed by the Tribunal to arrive at the conclusion as to whether goods are ore or concentrate keeping in view the deeming provisions. We find that the various judgments of Coordinate Benches cited by the learned Advocates in support that processes undertaken on the ROM ore are not special treatments and therefore, it would not amount to conversion of ore to concentrate, have not considered or taken into account the judgment of Hon'ble Supreme court in the case of M/s Star Industries Vs CC (Imports), Raigad (supra), and therefore, we do not find ourselves inclined to follow the ratio laid down by such judgments in support that the processes undertaken were not amounting to special treatments. We have already made it clear that the term 'special treatment' has not been defined and it has been considered only in terms of Board's circular dt.17.01.2012. However, on crucial analysis and plain reading of explanatory note, it is obvious that any activity, which is carried out on the ROM ore with an intent to remove foreign matters, either partially or fully, so as to make it useful for metallurgical purposes or for economic transport, the said process itself would amount to conversion and therefore, the said activities, per se, will have to be considered as amounting to conversion and therefore resulting into deemed emergence of new excisable goods i.e., ore concentrate. We also find that the circular of CBIC is based on a clarification issued by the Ministry of Mines, where certain processes of crushing and screening were treated as mere preparatory processes and were not treated as special treatments as contemplated in the explanatory notes. We find that while the circulars are binding on the department, however, if it is patently against the obvious stated provisions then it need not be followed. That apart, in the present appeals, it is not only a question of crushing and screening, etc., but washing is also involved for removal of foreign material partly or fully. Therefore, what might have been clarified in the context of iron ore, need not be true for all types of ores or end use, as they have different impurities and intended uses requiring different kinds of preparatory processes.

23. Therefore, both on account of cited judgments having not taken into account the observations of the Hon'ble Supreme Court in the case of M/s Star Industries Vs CC (Imports), Raigad (supra) as also the fact that circular itself has not been correctly applied in the given factual matrix, the cited judgments are not relevant and are distinguished. There is another ground taken that similar activities are being performed in respect of Manganese ore extracted and sold in India, where such activities have not been treated as amounting to manufacture. However, per contra, learned AR has relied on the case of M/s MOIL Ltd Vs CCE &

ST, Jabalpur (supra), wherein, the issue examined by the Tribunal was whether various processes such as crushing, screening, sorting by hydraulic machines and washing with high pressure water, resulting into emergence of concentrate in terms of Chapter Note 4 to Chapter 26 and therefore, leviable to Central Excise duty is distinct from ore or otherwise. After considering the factual matrix and statutory provisions including Board Circular dt.17.02.2012, inter alia, it was held that the process of crushing, grinding, screening, grading of iron ore would result into 'manufacture' of, inter alia, 'concentrate' in terms of clause (ii) of section 2(f) read with Chapter Note 4 to Chapter 26. Thus, as the identical processes in India were held to be amounting to manufacture in terms of Chapter Note 4 to Chapter 26, it would be obvious that similar process undertaken abroad would also be amounting to deemed manufacturing resulting into a distinct product i.e., concentrate. Incidentally, in this case also, it is Manganese Ore and most of the users of Manganese ore, who are also included in these appeals, are simultaneously buying such ore from MOIL, which has been held to be leviable to Central Excise duty as concentrate.

24. Therefore, keeping in view the observations of Hon'ble Supreme Court in the case of M/s Star Industries Vs CC (Imports), Raigad (supra), when the goods are subjected to a similar activity and therefore, denied exemption in India and charged to Central Excise duty, similar goods having undergone similar processes when imorted would also be not entitled to CVD exemption. We also find force in the citations of the learned AR in the case of Beach Minerals Company Vs CC, Tuticorin [2023 (9) CENTAX 148 (Tri-Mad)]. In this case, it was the case of the department that the appellants have not undertaken any beneficiation process to make the mined sand into processed/upgraded Ilmenite. The Tribunal relied on the definition of the word 'beneficiation' under Rule 3(d) of Mineral Conservation and Development Rules, 1988, as under.

> *"12. The major objection but forward by the Department is that the appellants have not undertaken any beneficiation process to make the mined sand into processed/upgraded Ilmenite. The appellant has produced the flow chart showing the various processes undertaken before the goods are exported. It may be true that the mine sand has not undergone any chemical treatment or roasting. It has to be seen that the said flow chart has been approved by the Mining Department as well as the Atomic Energy. Further in the Tariff heading reproduced above, the word "beneficiation" has not been explained. Rule 3(d) of Mineral Conservation and Development Rules, 1988 defines "beneficiation". The said rule reads as under:*
>
> *"4.5 Mineral Conservation and Development Rules, 1988.*
>
> *3. Definitions.- In these rules, unless the context otherwise requires –*
>
> *3(d) "beneficiation" means process of minerals or ores for the purpose of*
>
> *(i) Regulating the size of a desired produce;*
>
> *(ii) Removing unwanted constituents; and*
>
> *(iii) Improving quality, purity or assay grade of desired product."*

25. Therefore, it was held that any process, which is done for the purpose of regulating size of desired produce, removal of unwanted

constituents and improving quality, purity or assay grade of desired product, would be treated as beneficiation process. The Tribunal also relied on the decision in the case of VV Minerals Vs CC [2016 (332) ELT 888 (Tri)], wherein the Tribunal has relied on the judgment of Hon'ble Supreme Court in the case of Tata Steel Ltd Vs UOI [2015 (3) SCALE 759], wherein, the Hon'ble Supreme Court examined the question as to what the consequence of beneficiation is and observed very briefly that the consequence of beneficiation of coal is upgrading or improving its quality from ROM coal. Thereafter, it was, inter alia, held that beneficiation process (dense media gravity separation and froth flotation) are a physical separation process to separate higher ash coal and lower ash coal, so no chemical changes are there in the coal mineral, as there are no chemical reactions involved during this beneficiation process. The findings of the Tribunal at para 15 are relevant and is cited below for ease of reference.

> *15. Our view is supported by the decision of the Tribunal in the case of VV Minerals Vs. Commissioner of Customs (supra). The Tribunal analyzed the issue in detail and observed as under:*
>
> *"11. We have also seen the sample of both unprocessed and the final product i.e. upgraded Ilmenite and perused the certificate dated 1-3-2013 issued by the Department of Geology & Mines, Government of Tamil Nadu which clearly confirms that appellants are licensed by the Government of Tamil Nadu to export processed/upgraded Ilmenite. Both adjudicating authority and the LAA relied the website literature of another company i.e. Kerala Minerals Ltd. and based their decision only on the issue of roasting and acid wash or chemical treatment. The department also contends that beneficiated ore should be high % of TiO2 which is 'Synthetic Rutile'. We find that the classification of 'Rutile' is separately classified under CH 2614 00 31. Therefore, the department's contention for classifying under Chapter 2614 00 10 is not based on valid reasons and relying another firm's website details cannot be taken as authentic evidence. It might be the process undertaken by the said company.*
>
> *12. The Hon'ble Supreme Court in the case of Tata Steel & Others v. UOI (supra) while discussing the entitlement of refund of royalty on the Mines & Minerals has discussed the 'beneficiation' and the benefits. The relevant paragraphs of Apex Court is reproduced as under :-*
>
> *"26. The question that, therefore, arises is what is the consequence of beneficiation? Very briefly, the consequence of beneficiation or coal is upgrading or improving its quality from ROM coal. In the Convenience Volume handed over to us, with reference to beneficiation or coal, it is stated by Tata Steel as follows :*
>
> *The crushed raw coal (ROM) has ash percentage varying from 22% to 40% and moisture of 3% to 5%. For use in Blast furnace for steel making, we require clean coal of uniform quality at low ash %. So, Beneficiation of ROM raw coal is done to reduce the ash content to bring up to Steel Grade coal.*
>
> *ROM coal of various seams at coal mine is fed into the Coal washery (Beneficiation plant) for beneficiation so that the final clean coal product has ash of below 15% (Steel Grade coal).*

For coal beneficiation, gravity separation methods for coarser (size 13 mm to 0.5 mm) material and froth floatation method for finer material (size < 0.5mm) are done.

So, before beneficiation, the raw coal is crushed into size below 13 mm at Coal Handling Plant (Crushing Plant). The coarse material i.e. size from 13 mm to 0.5 mm is treated in dense media cyclone whereas, less than 0.5 mm is treated by froth floatation method. As beneficiation is a wet process hence, it increases the moisture percentage of beneficiated coal by around 8% to 15%.

After beneficiation, apart from the clean coal (required in Blast furnace for Steel making), we also get Coal by-products named as, middling (ash 40-45%), Tailings (ash 40-45%) and Rejects (ash 60-65%).

The product quantity after beneficiation process gets increased due to wet process by adding moisture into the output, shown by an example below -

Production (Extraction) : The basis figure of production of 100 tonnes of ROM coal has been taken.

Therefore, Quantity produced (Extracted) : = 100 tonnes

Beneficiation : The products are dewatered but still the surface moisture gets adhered to the product generated. The beneficiation is a wet process i.e. raw coal mass flows through different process in slurry form. Output is measured on wet process because it is transported on wet basis (with moisture). Hence the output is more than the input of raw coal.

Beneficiation process results in

Clean Coal; Middlings; Tailings; and Rejects

... ...

Conclusion :

It is quite clear that beneficiation process (dense media gravity separation and froth floatation) are a physical separation process to separate higher ash coal and lower ash coal, so no chemical changes are there in the coal mineral, as there are no chemical reactions involved during this beneficiation process.

Referring below a flow chart [not relevant] ..... From the quantity related table, it is also quite evident that due to addition of water during wet beneficiation, the summation of beneficiated coal product quantity is higher than fed ROM coal quantity."

The Apex Court in the above decision clearly spelt out that beneficiation processes are only related to physical separation. The ratio of the Apex Court decision though it was held with respect to coal, the same squarely is applicable to the present case as the principle of beneficiation is same. Further the Hon'ble High Court of Patna in the case of Indian Aluminium Co. Ltd. and Anr. v. State of Bihar & Ors. (supra) while deciding the constitutional validity of collection of fees on ores under Mines & Minerals Act, 1980 relied the definition of beneficiation given under MCD Rules, 1988. Further, we find that the Board's circular dated 17-2-2012 had clarified chapter note of Chapter 2601 - 2617 and by beneficiation process

the end product of ore is concentrate or upgraded ore. The extract of circular is reproduced as under :-

*" * * *

From the above definition, it is clear that removal of part or all of foreign material is envisaged for conversion of ores into concentrates. Ministry of Mines have clarified that no special treatment is involved in the crushing and screening of ore and the end-product can be termed as a concentrate only when the grade of ore is sufficiently improved through beneficiation. Federation of Indian Mineral Industries have also pointed out that several processes (in addition to crushing and screening) such as milling, hydraulic separation, magnetic separation, floatation & Concentrate thickening have to be undertaken for ores to be converted into concentrate.*

3. Hence it is clarified that the levy of excise duty is attracted only in cases where the product meets the definition of concentrate as per HSN Notes, that is, 'ores which have had part or all of the foreign matter removed by special treatments either because such foreign matter may hamper subsequent metallurgical operations or with a view to economical transport'."

The above clarification covers the appellant's export product which is covered under 2614. The above circular and the ratio of the Hon'ble Apex Court and High Court decisions (supra) are squarely applicable to the present case. The department relying on the Tribunal decision in the case of Kerala Minerals & Metals Ltd. (supra) is on the manufacture and excisability of the product and not on beneficiation or classification. The same is not applicable to the present case as the issue here is on charging export duty on Ilmenite Upgraded (beneficiated). The definition of "beneficiation" given in Mineral Conservation and Development Rules, 1988 is more authentic than the website literature relied by department. Both Apex Court decision and High Court decision on 'beneficiation' are applicable to the present case. While classifying the goods whether for import or export the descriptions used in the chapter headings and sub-headings are to be literally applied and no other meaning or assumption can be made. The sub-heading 2614 00 20 only describes Ilmenite upgraded (beneficiated Ilmenite) without any specification. As evident from the findings of LAA the Revenue's trying to put the "Synthetic Rutile" under the above heading is incorrect and not acceptable. Therefore, by respectfully following the Apex Court and High Court decisions referred above, we are of the considered view that the product "Ilmenite" exported by the appellant is rightly classifiable under CH 2614 00 20 of CTH as "Ilmenite upgraded (Beneficiated Ilmenite) and chargeable to appropriate export duty and not under 2614 00 10 of CTH.

13. Accordingly, the impugned order is set aside and the appeal is allowed with consequential benefit."

26. Thereafter, the Tribunal held that goods, which were upgraded/ processed Ilmenite are classifiable under 2614 00 20 and set aside the Revenue appeal. Therefore, in this case also, simple physical process of segregating or washing certain foreign materials have been treated as leading to upgradation of quality, etc., and keeping in view the definition of 'beneficiation' process, it was held that resulting product is beneficiated product.

27. There are some other incidental grounds taken by appellants that no testing was conducted or expert opinion relied upon to arrive at the conclusion that such activities led to conversion of ore into concentrate. We find that while prior to insertion of deeming provision, the tests were being conducted to distinguish between concentrate and ore for deciding whether they are eligible for exemption or otherwise. However, post this insertion of Chapter Note, in view of the deeming provision, there was no necessity to conduct any test as long as it is established and admitted that certain activities were undertaken on ROM ore before it was shipped to India. The only issue that required to be seen is that whether these activities undertaken prior to its shipment could be considered as process leading to removal of impurities and foreign material so as to make it suitable for metallurgical purposes or for economical transportation. It is also not necessary that it should be some detailed process involving physical, physico-chemical and chemical operations, as even simple physical process like washing, crushing, sizing, etc., depending on requirement and the nature of ore, would enhance its value and purity and compatibility with intended end use. In all these appeals, it is not in dispute that they have received ore of certain concentration and admittedly they are above 35%. The scheme of classification of Manganese ore is that Chapter Heading 2602 00, which covers both Manganese ore and concentrates, including ferruginous manganese ores and concentrates with a manganese content of 20% or more, calculated on dry weight. The scheme is reproduced below:

Tariff Item	*Description of goods*	*Unit*	*Rate of duty*
2602	*Manganese Ores and Concentrates, including Ferruginous Manganese Ores and Concentrates with a Manganese Content of 20% or more, calculated on the dry weight*		
2602 00	*Manganese ores and concentrates, including ferruginous manganese ores and concentrates with a manganese content of 20% or more, calculated on the dry weight:*		
2602 00 10	*Manganese ore (46% or more)*	*Kg.*	*12.5%*
2602 00 20	*Manganese ore (44% or more but below 46%)*	*Kg.*	*12.5%*
2602 00 30	*Manganese ore (40% or more but below 44%)*	*Kg.*	*12.5%*
2602 00	*Manganese ore (35% or more but below*	*Kg.*	*12.5%*

40	*40%)*		
2602 00 50	*Manganese ore (30% or more but below 35%)*	*Kg.*	*12.5%*
2602 00 60	*Ferruginous (10% or more but below 30%)*	*Kg.*	*12.5%*
2602 00 70	*Manganese ore sinters, agglomerated*	*Kg.*	*12.5%*
2602 00 90	*Other*	*Kg.*	*12.5%*

28. Thus, for different Manganese content in the ore, different sub-classification has been made. A logical question would be if someone imports ore with Manganese content of 20% and someone imports ore of Manganese content of 35% or above, will they be same. In our opinion, this sub-classification clearly indicates that Manganese ore can have different Manganese content, either naturally occurring or by way of subjecting it to certain process to arrive at desired percentage. The lowest percentage for Manganese ore and concentrate had been accepted at 20%. Thus, any improvement in the content itself, where there is clearly admitted fact that it has undergone certain process, would indicate that there has been an improvement in the quality. Therefore, on this count also, it can be said that the subject processes undertaken on ROM ore has resulted into emergence of concentrate, which is a distinct excisable goods in view of deeming provisions."

11. Even on the issue of interest, in the facts of the case, it was held that in terms of statutory provisions, which are quite clear that when there is a delay in payment of duty due, applicable interest is required to be paid.

12. Thus, following the said order, we find in the facts of the case, the appellants would not be eligible for exemption claimed by them at the time of import in respect of impugned goods. We, therefore, do not find any merit in the appeal filed by the appellant and accordingly, the appeal is dismissed.

(Pronounced in the Open Court on 22.04.2026)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

Veda