CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD

REGIONAL BENCH - COURT NO. – I

Customs Appeal No. 23619 of 2014

(Arising out of **Order-in-Appeal** No.129/2014-VCH dated 09.10.2014 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Visakhapatnam)

M/s Orissa Stevedores Ltd., .. **APPELLANT**
OSL Tower, Link Road,
Cuttack,
Odisha – 753 012.

VERSUS

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

APPEARANCE:
Shri Hari Radha Krishnan, Advocate for the Appellant.
Shri M Anukathir Surya, Authorized Representative for the Respondent.

CORAM: HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)
HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30247/2026

Date of Hearing: 08.01.2026
Date of Decision: 23.04.2026

[ORDER PER: ANGAD PRASAD]

M/s Orissa Stevedores Ltd., (hereinafter referred to as appellant) has filed this appeal against the Order-in-Appeal No. 129/2014-VCH dated 09.10.2014 (impugned order), whereby, Learned Commissioner (Appeals) upheld the Order-in-Original no. 388/2012 dated 16.07.2012, wherein the Adjudicating Authority had finalised the assessment of Shipping Bill No. 1972 dated 13.05.2011 by adopting the unit price of USD 161 PDMT FOB for the

quantity of 6000 WMT and ordered for refund of revenue deposit of Rs. 2,86,601/-.

2. The brief fact is that the appellant filed the Shipping Bill dated 13.05.2011 for export of iron ore fines declaring the transaction value at USD 130 PDMT FOB based on a duly executed contract with the foreign buyer. The export was provisionally allowed and samples were drawn. The appellant deposited excise duty as directed. Upon finalisation, despite accepting Fe content variation as minor, the Adjudicating Authority rejected the value and enhances it to USD 161 PMT relying upon data from MetalBullettin.com and certain alleged contemporaneous exports.

3. Learned Counsel for the appellant submits that the Learned Commissioner (Appeals) had admitted that the Adjudicating Authority did not follow any procedure laid down in Rule 8 of the EVR, 2007 before taking the decision to reject the declared unit price and declared the transaction value. In spite of above violation, Learned Commissioner dismissed the appeal filed by the appellant.

4. Learned Counsel for the appellant submits that Learned Commissioner in his own finding admitted that furnishing of relied document is a legal requirement and for that directed the Adjudicating Authority to comply with the same. Despite such clear merit, the Learned Commissioner went against his own findings. The Adjudicating Authority has passed the order on the basis of data from Metalbulletin.com, but no material regarding the same have been provided to the appellant. In this regard, Learned Counsel for the appellant has placed reliance on the following decisions:

i) Commissioner of Customs, New Delhi Vs Prabhu Dayal Prem Chand [2010 (253) ELT 353 (SC)]

ii) CCE & ST, Noida Vs Sanjivani Non-Ferrous Trading Pvt Ltd., [2019 (365) ELT 3 (SC)]

iii) Century Metal Recycling Pvt Ltd., Vs Union of India [2019 (367) ELT 3 (SC)]

5. Learned Counsel for the appellant submits that the contemporaneous details as mentioned in the OIO does not mention the quantity and commercial level of the transaction. The quantity and commercial level at which another exporter has exported iron ore fines should be mentioned before raising the doubt about the truth and accuracy of the declared transaction value. In this regard, he placed reliance on the following decisions:

i) Obulapuram Mining Company Pvt Ltd., Vs CCCE & ST, Guntur [2018 (10) TMI 223 – CESTAT, Hyderabad]

ii) Moorgate Industries India Pvt Ltd., Vs Commissioner of Central Tax, Visakhapatnam-GST [2024 (5) TMI 629 – CESTAT, Hyderabad]

6. Learned Counsel for the appellant also submits that Rule 3 of the Customs Valuation (Determination of Value of Export Goods) Rules 2007 clearly states that the value of export goods should be the transaction value i.e. the value as per sub-section (1) of Section 14 of the Customs Act 1962. It is also important that Commissioner (Appeals) admitted in his findings that the value of export goods shall be the transaction value which is the actually paid or payable. But, despite such finding rejected the transaction value and refused to accept the actual amount paid by way of producing Bank Realisation Certificate (BRC). Reliance is placed in the case of Eicher Tractors Ltd., Vs Commissioner of Customs, Mumbai [2000 (122) ELT 321 (SC)]. He further submits that when the transaction value is based on an agreement, it cannot be enhanced unless it was proved that the buyer paid

over and above the agreement. Reliance is placed on Stovec Industries Ltd., Vs Commissioner of Customs, Nhava Sheva [2005 (186) ELT 225 (Tri-Del)].

7. Learned AR reiterates the findings of the impugned order and also submits that declared value was rightly rejected based on contemporaneous export price and demand of duty has been correctly quantified.

8. Heard both the sides and perused the records.

9. It is an admitted fact that crucial documents on which Assessing Authority has relied has not been furnished to the appellant which was a legal requirement. Learned Commissioner (Appeals) has himself accepted this violation. However, despite such finding, he dismissed the appeal filed by the appellant. In this regard, it is relevant to cite the relevant para of impugned order as thus:

> "Furthermore, while finalising the transaction value as per Section 14 of the Customs Act' 62, it was incumbent upon the respondent to follow the conditions and procedure prescribed under Rule 8(1) & (2) of the EVR, 2007. And the said conditions and procedure include issuing query memo to the appellant to furnish further information including documents or other evidence, at the request of the appellant specifying reasons in writing for doubting the declared transaction value and granting personal hearing to the appellant before taking the final decision to reject the declared price. I find in the instant impugned order, the respondent did not follow any such procedure before taking decision to reject the declared unit price and kept the appellant in darkness while finalizing the assessment, rejecting the declared transaction value; thereby his decision of rejecting of declared unit price coming to the verge of being legally untenable under Rule 8 of the EVR, 2007."

10. Therefore, it is an admitted fact that Learned Commissioner (Appeals) accepted that Assessing Officer not followed the principles of natural justice and yet proceeded to decide the appeal on merit and rejected the appeal filed by the appellant.

11. Rule 8 of Customs Valuation (Determination of Value of Export Goods) Rules provides as thus:

> **8. Rejection of declared value**
>
> (1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any export goods, he may ask the exporter of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such exporter, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, the transaction value shall be deemed to have not been determined in accordance with sub-rule (1) of rule 3.
>
> (2) At the request of an exporter, the proper officer shall intimate the exporter in writing the ground for doubting the truth or accuracy of the value declared in relation to the export goods by such exporter and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

12. Therefore, as above provisions, what is relied upon must be disclosed. Hon'ble Supreme Court in the cases of Century Metal Recycling Pvt Ltd., and Sanjivani Non-Ferrous Trading Pvt Ltd., supra, has categorically held that valuation cannot be enhanced based on undisclosed material.

13. Thus, once violation of natural justice is established, the order cannot be sustained. Therefore, the impugned order is vitiated on this ground alone.

14. Section 14 of the Customs Act mandates that the value of export goods shall be the transaction value, i.e. the price actually paid or payable. The Hon'ble Supreme Court in the case of Eicher Tractors Ltd., [2000 (122) ELT 321 (SC)] held that transaction value can be rejected only for valid and cogent reasons.

15. In the present case, the Department has relied on contemporaneous export without supplying documents to the appellant, without establishing similarity in quality, quantity and commercial level. It is settled law that transaction value cannot be rejected merely because some goods were exported at higher prices as held in the cases of Devika Trading Pvt Ltd., Vs

CC, Mumbai [2004 (167) ELT 75 (Tri-Mum)] and BTM Exports, Rungta Sons Vs CC, Visakhapatnam [2017 (11) TMI 1530 (CESTAT-Hyd)].

16. Thus, the prescribed procedure has not been followed by the Adjudicating Authority. It is also admitted in the impugned order that the Adjudicating Authority has not complied with the principles of natural justice. In such circumstances, matter is liable to be remanded back to the Adjudicating Authority to decide the matter in view of above observations.

17. In view of the above discussions, the impugned order is not sustainable and liable to be set aside. Therefore, set aside.

18. Appeal is allowed by way of remand to the Adjudicating Authority.

(Pronounced in the open court on 23.04.2026)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

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