# CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL HYDERABAD

Division Bench – Court No. – I

## Customs Appeal No. 20965 of 2015

(Arising out of Order-in-Appeal No. 47/2014-VCH dt.03.04.2014 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Visakhapatnam)

**M/s Mangilall Rungta**
Rungta House, Chaibasa PO,
Jharkhand – 833 201. .. **Appellant**

*VERSUS*

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

**Appearance**
Shri S.C. Choudhary, Advocate for the Appellant.
Shri A. Rangadham, AR for the Respondent.

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

**FINAL ORDER No. A/30252/2026**

Date of Hearing: 08.01.2026
Date of Decision: 27.04.2026

**[Order per: ANGAD PRASAD]**

M/s Mangilall Rungta (herein after referred to as Appellant) are engaged in export of Iron Ore fines. They have filed the Shipping Bill No.GP-400 dt.05.12.2011 for the export of 7,700 WMT of Iron Ore Fines of 63.5% Fe content under contract dt.04.11.2011 to one M/s Sinosteel International Macao Commercial Offshore Ltd., Macau totally valued at Rs.5,41,64,707/- FOB. The declared price was assessed provisionally, pending test and submission of final documents on execution of PD bond and securing revenue deposit towards differential moisture content between declared content of 8% and 5%, as ordered by the Commissioner. On finalization, by OIO dt.04.09.2012, the Original Authority accepted the declared price of USD 165 CFR PDMT and adopted the same for finalization of the shipping

bill. Accordingly, he ordered for recovery of Rs.1,02,082/- along with applicable interest from the appellant on account of difference in moisture content. The appellant filed an appeal against the said OIO before the Commissioner (Appeals), who, after personal hearing and considering the relied upon case laws, dismissed the appeal filed by the appellant. Being aggrieved, the appellants filed the present appeal.

2. Learned Advocate for the appellant has submitted that the issue in the present case is whether to accept the transaction value calculated on basis of load port test report given by the Customs House Lab or the transaction value given in final invoice calculated on the basis of discharge port analysis as per the contract. He has submitted that the issue is squarely covered by precedent judgments of the Tribunal, wherein it was held that if the department does not allege that the appellants has realized any amount more than what is indicated in the final invoice, which has been received by them through Bank then that is the transaction value on which dutyhas to be paid. He has further contended that Commissioner (Appeals) has not followed any prescribed procedure and his decision of rejecting the declared moisture is legally untenable. He has relied on Board's Circular No. 12/2014 dt.17.11.2014, which provides that when the variation between the load port and discharge port test reports is within tolerance limit provided in the contract and do not impinge upon declared price, the proper officer shall finalize the assessment as per transaction value. Accordingly, he has prayed for setting aside the impugned OIA and direct the finalization of assessment as per transaction value as reflected in BRC.

3. Learned AR, on the other hand, has reiterated the findings of the Commissioner (Appeals) in the impugned order.

4. Heard both sides and perused the records.

5. On perusal of the impugned order, it is clear that the dispute is not regarding the Fe content or unit price but it relates to the variation in moisture content in load port test report and discharge port test report.

6. It is an admitted fact that crucial documents such as documents or other evidence on which relied by assessing officers were not provided to the appellant. Learned Commissioner (Appeals), has himself accepted this violation. However, despite such finding he proceeded to decide the matter on merit. In this regard, it is relevant to cite the relevant paras of impugned order for ready reference:

> "5.2 The only dispute here is in respect of weighment calculation taking into account moisture content. The moisture content determination has been done by Chemical Examiner as well as load port analysis and both differ widely. The load port test report submitted by appellant has a value of 8% moisture, whereas the one submitted by Custom House Laboratory is 4.1% moisture.
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> 5.3 Furthermore, when the respondent doubted the moisture content basing on Chemical Laboratory Report, it was incumbent upon him to follow the conditions and procedure prescribed 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 test report submitted by the appellant and granting personal hearing to the appellant before taking the final decision to reject the declared moisture content as it determines the weight of the cargo and in turn the duty liability. I find from the impugned order that the Adjudicating Authority did not follow any such procedure before taking the decision to reject the declared moisture and kept the appellant in darkness while finalizing the assessment, rejecting the declared moisture; thereby his decision of rejecting of declared moisture coming to the verge of being legally untenable.
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> 5.4 Last but not the least, adopting the quantity basing upon moisture content would have been on strong footing had the Adjudicating Authority provided the relied upon evidences to the appellant following Principles of Natural Justice. All that was required to be done was to provide the Chemical Laboratory Report of Custom House, Visakhapatnam which was relied upon to assess the quantity and value. Furnishing of the Customs Laboratory report would have resulted into Department being on sound footing but these basic things which are sacred to "rule of law" was ignored.

> Not following Principles of Natural Justice, which is basic to any democratic jurisprudence, is bad in law and ideally I should have remanded the case back to Lower Authority to pass a reasoned order. However, since Act/Rule has not given me power to remand, I proceed to decide the case on merits.
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> .....
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> 5.9 In view of the above, it is observed that providing relied upon documents to exporter (appellant) is a legal requirement and hence I direct the Assistant Commissioner/Deputy Commissioner (respondent) concerned to provide that relied upon documents forthwith. However, the appeal filed is dismissed as devoid of merits."

Therefore, it is an admitted fact that Learned Commissioner (Appeals), accepted that assessing officer has not followed the principle of natural justice and had proceeded to decide the appeal on merit and rejected the appeal filed by the appellant.

7. 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.

8. In the present case, the appellant has realized full sale proceeds, there is no allegation of relationship or flow back, no any evidence to create doubt in genuineness of transaction. Therefore, rejection of transaction value is not according to law. There is no dispute that export duty during the relevant period was ad valorem in such cases, duty is levide on value and not quantity or composition. The Tribunal, Calcutta in the case of CC Vs Sesa Goa [2014 (37) ELT385 (Tri-Kol)] held that for ad valorem, moisture and Fe content are not determinative. In this regard, the relevant para of the decision is as under:

"7. The Department has challenged the said observation mainly on the ground that the Hon'ble Supreme Court in the case of Gangadhar Narsingdas Agarwal (supra), had observed that wet weight be adopted in contrast to the dry weight of the iron-ore fines as the basis for computing the export duty. However, on going through the said judgment, we find that the Hon'ble Supreme Court has decided the question whether for the quantification of export duty chargeable on the specific criterion of weight as the basis, be on the dry weight or on wet weight of the iron-ore fines. Needless to say, when the charge of export levy was on specific rate basis, that is on the weight of the iron ore, irrespective of its value, then the basis of dry or wet weight, of the goods become relevant for determination of the quantum of duty. Whereas, in the present case, the duty is levied on the basis of the transaction value 5 Appeal No. C/28471/2013 agreed between the respondent and the overseas purchaser on the criterion of dry weight of iron ore fines. Therefore, the determination of export duty on the basis of dry weight or wet weight, in our opinion, is irrelevant as the duty to be computed on the value of the goods in dry weight condition, as agreed by the parties. Therefore, we agree with the contention of the ld. CA for the respondent that the said judgment is inapplicable to the facts and circumstances of the present case. In the result, Revenue's appeals filed on this issue is devoid of merit. Accordingly, ld. Commissioner (Appeals') Order to this extent is upheld. Consequently, Revenue's appeals are dismissed."

9. Even by this bench in the case of Customs Appeal No. 25364/2013 M/s Bonai Industrial Company Pvt Ltd., and 6 other by Final Order No. A/30317-30324/2024 dated 21.06.2024, wherein, inter alia, held that irrespective of the quantity of ore exported, as the export duty is an ad valorem basis the value for export duty has to be taken as per transaction value only. The relevant paras are cited below:

"11. Therefore, in all these cases, the contracts are clearly specifying these parameters. From the documentary evidence provided by way of invoices, it is seen that based on the moisture content arrived at by CIQ, the appellant has reduced the quantity and arrived at the DMT quantity. There is no dispute that the appellant has realised only the value shown in the total value shown in the invoices. Therefore, it is clear that the transaction value has been followed by the appellant. This also meets the requirement as specified in the Circular No. 12/2014 dated 17.11.2014. Hence on this count the Appeal stands allowed.

12. Another point to be considered is that in this case the Export duty is on advalorem basis, which is dependent on the value of the consignment exported. Irrespective of the quantity of DMT exported, the fact remains that the appellant has received the export proceeds only for the net

quantity shown in their Invoices. Hence, the value for Export Duty has to be taken as per Transaction Value only. Admittedly, as per the Para 11 of the Order-in-Original, the transaction value is not doubted. Hence, even on considering this fact, the impugned order cannot be sustained."

10. 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 the above observations.

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

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

(Pronounced in the Open Court on 27.04.2026)

**(A.K. JYOTISHI)**
**MEMBER (TECHNICAL)**

**(ANGAD PRASAD)**
**MEMBER (JUDICIAL)**

Shirisha