IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA

REGIONAL BENCH – COURT NO. 2

Customs Appeal No. 76559 of 2024

(Arising out of Order-in-Appeal No. Kol/Cus(Port)/KS/693/2023 dated 15.09.2023 passed by the Commissioner of Customs (Appeals) 3rd Floor, Custom House, 15/1, Strand Road, Kolkata-700001)

M/s. Crescent Foundry Company Private Limited, **: Appellant**
Lords, Suite 406, 7/1, Lord Sinha Road,
Kolkata-700071

VERSUS

The Commissioner of Customs (Port), **: Respondent**
Custom House, 15/1, Strand Road, Kolkata-700001

APPEARANCE:

Shri N. K. Chowdhury, Advocate
for the Appellant
Shri S. Debnath,
Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.76384/ 2026

DATE OF HEARING: 16.09.2026
DATE OF PRONOUNCEMENT: 08.10.2026

ORDER: [PER SHRI R. MURALIDHAR]

The appellant exported ductile iron casting rough of 300 sets in 60 packages against shipping bill No. 6341279 dated 19-08-2019 to CR Casting Sultanate of Oman. On receipt of the goods by the importer, it was seen that the goods were received in damaged condition. Therefore, the foreign buyer vide invoice dated 08-07-2020 sent back the goods to India for necessary rework and return of the goods to them. The appellant vide Bill of Entry No. 8818701

dated 15-09-2020 sought clearance of the imported goods on executing bond and bank guarantee and by availing the duty exemption benefit under Notification No. 158/95 CUS dated 14-11-1995. The appellant got the goods cleared without payment of duty on the condition that they would re-export the goods after taking up the necessary rework.

2. In view of exigency and urgent requirement by the overseas importer, the appellant instead of sending the re-worked goods, exported the freshly manufactured goods vide shipping bill No. 9494753 dated 93-02-21. The appellant got the foreign exchange for the re-exported goods. After this, the appellant sought cancellation of re-export bond and bank guarantee. On verification of the documents, the Assistant Commissioner vide letter dated 28-10-2021 pointed out that there was no mention in the Shipping Bill about the re-exportation of subject goods. The appellant was issued a show-cause notice on 21-03-2022 alleging violation of the conditions specified under Notification No. 158/95 CUS dated 14-11-1995. Therefore, custom duty of Rs 6,30,272/- was demanded along with interest and penalty. The appellant pointed that they have dispatched the same goods once again. However, instead of re-exporting the repaired goods, they had dispatched the normally manufactured goods. Both the goods are of the same quality. Therefore, the shipping bill should be taken as if that was pertaining to the re-export of the goods. However, the adjudicating authority confirmed the demand and also confiscated the goods in question and gave an option to redeem the same on payment of redemption fine of Rs 2 lakhs. He also imposed

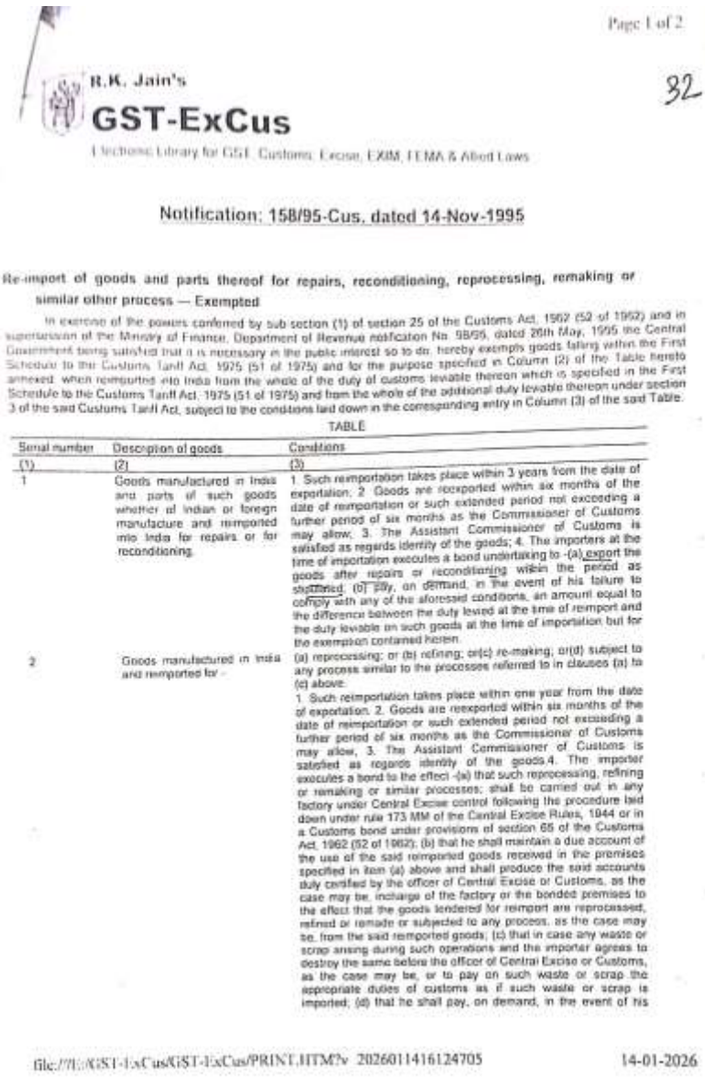
penalty of Rs 50,000 under Section 112 (a) of Customs Act 1960. Being aggrieved, the appellants filed their appeal before the Commissioner Appeals who has dismissed their appeal. Therefore, the appellant is before the Tribunal.

3. The Learned Counsel submits that in view of the exigency, the appellant dispatched the freshly manufactured goods to the overseas importer. The description of the goods exported and the initially re-imported goods would 100% tally. Therefore, the appellant submits that there was no violation of any condition imposed under Notification 158/95 Cus dated 14-11-1995. He relies on the case law of *In Re Star Wire (India) Ltd. [2011(272) E. L. T. 448(G.O.I.)].* He also relies on the case law of Natural Remedies Private Limited v. CCE Bangalore. In view of those submissions, he prays that the appeal may be allowed.

4. The Learned AR, appearing on behalf of the Revenue, submits that Notification 158/95 Cus dated 14-11-1995 clearly specifies that the exports have to be in respect of the same goods after repairs and reconditioning within the period as stipulated. The details should be mentioned in the shipping bill and the same should satisfy the Assistant Commissioner of Customs with regard to identity of the goods. In the present case, in the shipping bill, the appellant has not mentioned anything about the fact of the goods being re-exported. Therefore, the condition mentioned under Notification 158/95 Cus is not satisfied. He justifies the confirmed demand on both sides.

5. Heard both the sides.

6. We have gone through the Notification 158/95 Cus dated 14-11-1995 which is reproduced below:-



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Notification: 158/95-Cus, dated 14-Nov-1995

Re-import of goods and parts thereof for repairs, reconditioning, reprocessing, remaking or similar other process — Exempted

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) and in supersession of the Ministry of Finance, Department of Revenue notification No. 98/95, dated 26th May, 1995 the Central Government being satisfied that it is necessary in the public interest so to do, hereby exempts goods falling within the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and for the purpose specified in Column (2) of the Table hereto annexed, which reimported into India from the whole of the duty of customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and from the whole of the additional duty leviable thereon under section 3 of the said Customs Tariff Act, subject to the conditions laid down in the corresponding entry in Column (3) of the said Table.

TABLE

Serial number	Description of goods	Conditions
(1)	(2)	(3)
1	Goods manufactured in India and parts of such goods whether of Indian or foreign manufacture and reimported into India for repairs or for reconditioning	1. Such reimportation takes place within 3 years from the date of exportation; 2. Goods are reexported within six months of the date of reimportation or such extended period not exceeding a further period of six months as the Commissioner of Customs may allow; 3. The Assistant Commissioner of Customs is satisfied as regards identity of the goods; 4. The importers at the time of importation executes a bond undertaking to -(a) export the goods after repairs or reconditioning within the period as stipulated; (b) pay, on demand, in the event of his failure to comply with any of the aforesaid conditions, an amount equal to the difference between the duty levied at the time of reimport and the duty leviable on such goods at the time of importation but for the exemption contained herein.
2	Goods manufactured in India and reimported for -	(a) reprocessing; or (b) refining; or(c) re-making; or(d) subject to any process similar to the processes referred to in clauses (a) to (c) above. 1. Such reimportation takes place within one year from the date of exportation. 2. Goods are reexported within six months of the date of reimportation or such extended period not exceeding a further period of six months as the Commissioner of Customs may allow, 3. The Assistant Commissioner of Customs is satisfied as regards identity of the goods.4. The importer executes a bond to the effect -(a) that such reprocessing, refining or remaking or similar processes; shall be carried out in any factory under Central Excise control following the procedure laid down under rule 173 MM of the Central Excise Rules, 1944 or in a Customs bond under provisions of section 65 of the Customs Act, 1962 (52 of 1962); (b) that he shall maintain a due account of the use of the said reimported goods received in the premises specified in item (a) above and shall produce the said accounts duly certified by the officer of Central Excise or Customs, as the case may be, incharge of the factory or the bonded premises to the effect that the goods tendered for reimport are reprocessed, refined or remade or subjected to any process, as the case may be, from the said reimported goods; (c) that in case any waste or scrap arising during such operations and the importer agrees to destroy the same before the officer of Central Excise or Customs, as the case may be, or to pay on such waste or scrap the appropriate duties of customs as if such waste or scrap is imported; (d) that he shall pay, on demand, in the event of his

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7. From the Notification we find that the condition stipulated is very clear. It says that the importer at the time of importation should execute a bond undertaking to:

a. Export the goods after repairs or reconditioning within the period as specified.

b. Pay on demand in the event of his failure to comply with any of the aforesaid conditions.

8. This condition makes it clear that the goods which are to be re-exported are the ones which have been re-imported in India for which the permission has been granted to take up the repair work and to re-export the same within the specified time. There is nothing mentioned in the Notification that the normal goods which are manufactured can be simply substituted with the re-imported goods and the same can be re-exported against the re-imported goods.

9. We have also gone through the Shipping Bill No. 6341279. We find that there is no mention that the goods in question dispatched are the re-imported goods after rework. Had this fact been mentioned in the Shipping Bill, the Assistant Commissioner at Port would have caused necessary verification as to whether the goods being re-exported are the same ones which are being re-exported after repairs and reconditioning at the factory of the present appellant. This factual evidence could not be verified by the Customs Department since the appellant failed to mention about this fact in the Shipping Bill.

10. Therefore, we hold that the appellant has not fulfilled the requisite condition of the Notification, as has been correctly held by the lower authorities.

11. We find that in the case of Star Wire India Ltd, which has been decided by the Joint Secretary of the Government of India, the issue was completely different. It was a case drawback on account of re-exports in respect of scrap, whereas, in the present case, it is a specific case of re-import of the goods on the ground that it would undergo repairs and

reconditioning and the same would be exported which has not been done in this case. So far as the other case law of Natural Remedies Pvt Ltd is concerned, the facts are different and not applicable to the present case.

12. In view of the foregoing, we do not find any merits in the appeal filed by the appellant.

13. Accordingly, we dismiss the Appeal.

(Order Pronounced in Open court on 08.10.2026)

(R. MURALIDHAR)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

RKP