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CESTAT Mumbai Quashes Customs Reclassification of Scrap and Orders Refund with Interest

In a landmark decision, the Customs, Excise & Service Tax Appellate Tribunal (CESTAT), Mumbai, has delivered justice to M/s. Shreem Worldwide Private Limited, an importer who faced significant penalties and fines due to the reclassification of their imported goods. The case, which revolved around the classification and valuation of imported "Heavy Melting Scrap," highlights the importance of expert opinions and adherence to established legal principles in customs disputes.

Background of the Case

The dispute began when M/s. Shreem Worldwide Private Limited imported a consignment of "Heavy Melting Scrap" from the UAE, declaring its value as ₹19,42,688/- and paying the applicable duty of ₹3,27,429/-. However, upon examination by Docks Officials, the goods were reclassified as "serviceable used iron pipes, rusted and corroded," leading to a reassessment of their value and imposition of a redemption fine of ₹3,00,000/- and a penalty of ₹50,000/-.

The importer contested this decision, citing a Chartered Engineer's report that certified the pipes as discarded and unserviceable in their present form. Despite this expert opinion, the Commissioner of Customs (Appeals) upheld the adjudication order, prompting the importer to escalate the matter to the Tribunal.

Key Arguments

During the hearing, the appellant's counsel argued that the goods should be assessed based on their current state, not speculative future use. They emphasized the negligible weight discrepancy (0.54%) and the

Chartered Engineer's report, which clearly stated that the pipes were unserviceable and discarded. On the other hand, the Respondent-Department relied on a previous Tribunal judgment, asserting that the goods could be made serviceable with minor modifications.

Tribunal's Observations

The Tribunal meticulously reviewed the case records, expert reports, and submissions from both sides. It noted several critical points:

1. **Expert Opinion Overruled:** The Chartered Engineer's report, which was disregarded by the Department, clearly classified the goods as scrap. The Tribunal highlighted the importance of expert opinions, especially in technical matters, as per the Indian Evidence Act.
2. **Valuation Concerns:** The Tribunal questioned the basis for increasing the value of the goods from US \$380 PMT to US \$620 PMT, as no reference to contemporary imports or supporting documents was provided.
3. **Misclassification:** The Tribunal found that the Department's classification of the goods contradicted its own findings, as rusted and corroded pipes cannot be considered serviceable for their intended purpose.

The Verdict

In a decisive ruling, the Tribunal set aside the order passed by the Commissioner of Customs (Appeals) and allowed the appeal. It directed the Respondent-Commissioner to refund any duty paid, along with the redemption fine and penalty, within two months, along with applicable interest.

Implications of the Judgment

This judgment is a significant win for importers, reinforcing the principle that goods must be assessed based on their current state and not speculative future use. It also underscores the importance of expert opinions in customs disputes and calls for greater transparency in valuation processes.

Conclusion

The Tribunal's decision in favor of M/s. Shreem Worldwide Private Limited is a reminder of the need for fairness and adherence to established legal principles in customs assessments. Importers can take solace in the fact that expert opinions and meticulous legal arguments can prevail against arbitrary decisions. This case sets a precedent for similar disputes and serves as a beacon of hope for those seeking justice in the complex world of customs regulations.

This Article has been written by Shri Ravi Shekhar Jha, Advocate Delhi High Court based on his interpretation of the law. He can be reached at his email id intelconsul@gmail.com or on his Mobile +91-9999005379.

Source: CESTAT Mumbai

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

REGIONAL BENCH

Customs Appeal No. 86273 of 2014

[Arising out of Order-in-Appeal No. 171 (Gr.IV)/2014(JNCH)/IMP-158 dated 23.01.2014 passed by the Commissioner of Customs (Appeals), JNCH, Nhava Sheva, Mumbai Zone-II.]

M/s. Shreem Worldwide Private LimitedAppellant
**3rd Floor, Solitaire Building,
Opp.- Bombay Garage, Shahibaug,
Ahmedabad, Gujarat – 380 004**

VERSUS

Commissioner of Customs (Import),Respondent
**JNCH, Nhava Sheva
Jawaharlal Nehru Customs House,
Taluka-Uran, Dist.-Raigad,
Maharashtra – 400 707**

APPEARANCE:

Ms. Nandini Goel, Advocate with
Shri Anil Balani, Advocate for the Appellant

Shri Dinesh Nanal, Dy. Commissioner, Authorised Representative for the
Respondent

CORAM:

**HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)**

FINAL ORDER NO. 86239/2025

Date of Hearing: 24.07.2025
Date of Decision: 12.08.2025

PER: DR. SUVENDU KUMAR PATI

Enhancement of value of imported goods by reclassifying it as 'serviceable used iron pipes, rusted and corroded' from "Heavy Melting Scrap" as classified by importer, thereby making Appellant pay duty difference upon reassessment alongwith imposition of redemption fine of ₹3,00,000/- and penalty of ₹50,000/- by the Adjudicating Authority that received approval of the Commissioner (Appeals) is assailed before this forum by the Appellant-importer.

2. Facts of the case, in brief, is that Appellant had filed Bill of Entry No. 9107499 on dated 23.01.2013 through its CHA for clearance of its imported consignment namely "Heavy Melting Scrap" imported from UAE and declare its value as ₹19,42,688/- on which duty leviable was ₹3,27,429/- calculated basis unit value at US \$380 PMT and total weight of goods was declared as 83,810 Kgs. It was 100% examined by Docks Official who noticed that the goods were 'used iron pipes, rusted and corroded cut randomly at 15 ft. long length', which were serviceable and not the declared "Heavy Melting Scrap". Weight was found to be 455 Kgs. in excess of the declared weight. Accordingly, declared value was rejected as per Rule 12 of the Customs Valuation Rules, 2007 and value was re-determined on the basis of contemporary imports @US \$620/PMT. Importer, in non-acceptance of the said examination, sought for re-examination by a Chartered Engineer, who examined the same and *vide* its letter dated 05.03.2013 he opined that those pipes were discarded and not serviceable in the present form for its intended use but through an adjudication process, Appellant was directed to pay the above referred redemption fine & penalty and differential duty upon re-assessment. Learned Commissioner (Appeals) also *vide* his above referred order confirmed the adjudication order in an appeal preferred by the Appellant-importer before him and therefore, the matter has reached this Tribunal level at the behest of the importer.

3. During course of hearing of the appeal learned Counsel for the Appellant Ms. Nandini Goel supported by her senior Mr. Anil Balani, Advocate argued that upon re-examination conducted on 05.03.2013, Chartered Engineer had certified that those Rig pipes were discarded

as they outlived their utility and they are not serviceable in its present form for any intended use and since it is a settled principle of law that goods are required to be assessed, in the manner in which they are presented, judging about its future speculative use by the Docks Officer would be a decision taken under presumption since no process is suggested by the Department by which rusted and corroded iron pipes can be prepared for re-use after limited servicing done on the imported goods. She further submitted that weight was found to be 455 Kgs. in excess which is 0.54% of the weight mentioned in the Bill of Entry, that was negligible difference and attributable to weight taken at two different places in two different weighing machines and higher weight would fetch higher revenue for the Department, since value of goods have been determined on the basis of weight alone, for which no mis-declaration can be attributable to such a transaction.

4. Learned Authorised Representative Mr. Dinesh Nanal counter acted such submissions by referring to the decision of this Tribunal passed in the case of *Ashok Magnetics Ltd. Vs. Commissioner of Customs, Chennai, reported in 2005 (188) ELT 510 (Tri.-Chennai)*, that has also been noted by learned Commissioner (Appeals) in his order, that goods can't be called as scrap, just because they are old and used and such cutting the rough edges or the size of the goods would make it serviceable as after slight modification/alternation it can further be used, for which no irregularity can be noticeable in the order passed by the Commissioner (Appeals) in directing confiscation of goods under Section 111(m) and 111(d) of the Customs Act, 1962 and imposing penal action under Section 112(a) of the Customs Act, 1962.

5. We have gone through the case record, Chartered Engineer report and the written submissions filed by both the sides. At the outset it is to be stated that as per common knowledge "Heavy Melting Scrap" is a category of recyclable metal of steel and wrought iron, which is a popular choice for steel making due to its recyclability and ability to be melted down for new metal products, and the classification that is made by the Department on the basis of Docks Officials examination is 'rusted and corroded pipe cut randomly' but those were held to be serviceable. Going by the above categorisation, it can be said that both category of materials can be further used after reprocessing or re-servicing but that would not determine the value of goods for the reason that in its present form it is not useable, for which it is categorised as scrap and the value of scrap of those material/item is required to be taken for valuation purpose and not for its futuristic use. This being so, it is not understood as to why Respondent-Department has suggested to increase its value from US \$380 PMT to US \$620 PMT, which as per adjudication order is based on contemporary import but no reference is given in its order as to which consignment had declared the value of similar item as US \$620 PMT, and Appellant was not provided with a copy of such contemporary valuation order or self-assessed Documents. Further it is not understood as to why Chartered Engineer's report, who are empanelled by the Department itself for their expert opinion, has been dis-regarded in acceptance of Docks Officer's report, whose knowledge is based only on experience and need not be on the basis of any technical education, apart from the fact that Indian Evidence Act prompts for acceptance of expert opinion in a case of such nature. Going by the Chartered Engineer's report available at page 101 of the

appeal paper book, it is very clear that he had clearly given his opinion that the pipes are discarded and are not serviceable in the present form for its intended use. Therefore, the findings of the learned Commissioner (Appeals) that is based on a judgment passed by this Tribunal in the case of *Ashok Magnetics Limited, cited supra* can't be held to be proper for the reason that the said judgment dealt with goods which can't be called as scrap just because they are old and used, whereas in the instant case Department itself has classified it as rusted, corroded and randomly cut used pipes, which again from the common knowledge can't be said to be used for its intended purpose since outlived its utility because of being rusted and corroded. Hence the order.

THE ORDER

6. The appeal is allowed and the order passed by the Commissioner of Customs (Appeals), JNCH, Nhava Sheva, Mumbai Zone-II *vide* Order-in-Appeal No. 171 (Gr.IV)/2014(JNCH)/IMP-158 dated 23.01.2014 is hereby set aside with consequential relief of refund of any duty paid with redemption fine and penalty alongwith applicable interest as per law, which Respondent-Commissioner is directed to pay within two months of receipt of this order.

(Order pronounced in the open court on 12.08.2025)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

(Anil G. Shakkarwar)
Member (Technical)