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Date: 05.08.2025

CESTAT Mumbai Sets Aside Time-Barred Duty Demand

In a significant ruling, the Customs, Excise & Service Tax Appellate Tribunal (CESTAT), Mumbai, has set aside a duty demand of Rs. 16,54,073/- along with interest imposed on JSW Steel Ltd by the Commissioner of Customs, Panaji, Goa. The case revolved around the legality of a corrigendum issued years after the original Show Cause Notice (SCN), raising questions about the limitation period under Section 28 of the Customs Act. This decision underscores the importance of adhering to statutory timelines and procedural accuracy in customs adjudication.

Background of the Case

JSW Steel Ltd had exported Hot Rolled Non-Alloy Steel Coils and Cold Rolled Close Annealed Non-Alloy Wide Coils between April 10, 2008, and May 9, 2008. A notification issued on May 10, 2008, amended the duty rates for these goods to 15% and 10%, respectively, which were previously exempt from duty. While most shipping bills were cleared before the notification date, five shipping bills were cleared on May 10, 2008, leading to a demand for additional duty.

The original SCN was issued on October 3, 2008, but lacked reference to the specific provision of the Customs Act under which the demand was raised. A corrigendum was issued on April 11, 2013, invoking Section 28 of the Customs Act and substantially altering the content of the original notice, including changes to the description and quantity of goods.

Key Arguments

JSW Steel Ltd challenged the corrigendum, arguing that it was issued beyond the limitation period prescribed under Section 28 of the Customs Act, which restricts the issuance of SCNs to one year from the relevant date. The appellant contended that the corrigendum materially altered the original notice, making

it unsustainable in law. They cited judicial precedents, including rulings by the Supreme Court and High Courts, to support their case.

On the other hand, the Respondent Department argued that procedural errors, such as mentioning incorrect provisions, do not invalidate the proceedings if the notice provides sufficient details about the duty demand and goods involved.

CESTAT's Observations and Ruling

The Tribunal carefully examined the arguments and judicial precedents presented by both parties. It noted that the corrigendum issued in 2013 was integral to the original notice and substantially changed its scope and content. Since adjudication was initiated only after the corrigendum was issued, the Tribunal concluded that the demand was time-barred under Section 28 of the Customs Act.

The Tribunal emphasized that the limitation period prescribed under Section 28 is one year from the relevant date, and the corrigendum issued nearly five years after the export date could not revive a time-barred notice. Consequently, the duty demand of Rs. 16,54,073/- along with interest was set aside.

Implications of the Ruling

This decision is a landmark in customs law, reinforcing the importance of adhering to statutory timelines and procedural accuracy. It highlights that corrigenda or revised notices cannot be used to circumvent the limitation period prescribed under the Customs Act. The ruling also serves as a reminder to authorities to ensure that SCNs are issued with complete and accurate references to legal provisions.

For businesses, this case underscores the importance of challenging procedural lapses in adjudication processes, as they can have a significant impact on the outcome of disputes.

Conclusion

The CESTAT Mumbai's ruling in favor of JSW Steel Ltd is a victory for procedural fairness and statutory compliance. By setting aside the duty demand, the Tribunal has upheld the principle that legal processes must adhere to prescribed timelines and standards. This case will undoubtedly serve as a precedent for similar disputes in the future, ensuring greater accountability in customs adjudication.

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, COURT NO. 5**

CUSTOMS APPEAL NO. 86512 OF 2014

(Arising out of Order-in-Original No. Commr./Adj./Cus/17/2013-14 dated 29.11.2013 passed by the Commissioner of Customs Panaji, Goa.)

**JSW STEEL LTD
JSW CENTRE, BANDRA KURALA COMPLEX,
BANDRA (EAST),
MUMBAI-400051.**

Appellant

Vs.

**COMMISSIONER OF CUSTOMS-GOA
GOA COMMISSIONERATE,
ICE HOUSE, EDC COMPLEX,
PATTO PLAZA, PANAJI-GOA.**

Respondent

Appearance:

Shri Kiran Chavan, Advocate for the Appellant

Shri Krishna Azad, Asstt. 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. A/86196/2025

Date of Hearing: 03.07.2025

Date of Decision:04.08.2025

PER : BENCH

Confirmation of duty demand Rs. 16,54,073/- alongwith interest by the Commissioner of Customs, Panaji, Goa in Order-in-Original vide his above referred order is assailed by the Appellant solely on the ground of limitation.

2. Briefly stated, fact of the case goes to show that appellant had exported goods namely Hot Rolled Non-Alloy Steel coils and Cold Rolled Close Annealed Non

Alloy Wide Coils between 10.04.2008 and 09.05.2008 vide 143 numbers of shipping bills. There was an amendment made on 10.05.2008 by notification No. 66/2008-CUS that had effectively changed the rate of duty to 15% & 10% respectively for those two items which were earlier chargeable to NIL duty. As 138 shipping bills were passed for shipment on 09.05.2008, Ld. Commissioner had dropped the duty demand on those consignments and confirmed for five items @ 15% on three shipping bills totaling Rs. 8,87,600/- and @ 10% for Rs. 7,66,473/- for other two shipping bills alongwith interest u/s. 28 of the Customs Act on those two amounts. Show Cause Notice dated 03.10.2008 further reveals that though entry outward was granted for the bills on 10.05.2008, actual loading of goods took place only on 14.05.2008 for which additional duty was demanded with interest as per notification No. 66/2008-CUST dated 10.05.2008.

3. Appellant replied back to the Show Cause on dated 17.10.2008 challenging reference to Section 51 of the Customs Act in the show cause notice and subsequently on dated 20.01.2009 asked for a clarification regarding provision of Customs Act invoked to issue such a demand notice and pointed out that in the absence of specific Section of Customs Act being referred in the demand notice dated 03.10.2008, it becomes vague and not taxable .

4. The said query was answered by the Department vide its Corrigendum dated 11.04.2013 invoking Section 28 of the Customs Act to make a demand of Rs. 13,92,55,325/- in total alongwith applicable interest and also changing various figures in the notice concerning shipping bill number, gross weight as well as net weight of the goods exported. Appellant had contested the demand with reference to Section 16 of the Customs Act but mainly contented before this Tribunal about the legality of the issue of Corrigendum that had substantially enlarged the scope and content of original notice, which according to it is unsustainable in law.

5. During the course of hearing of appeal, Ld. Counsel for the Appellant Mr. Kiran Chavan, Advocate argued that in view of Corrigendum issued belatedly for a demand raised for the normal period, the same is not sustainable in law as has been held through judicial precedent set by various judicial forums including the one passed by the Hon'ble Supreme Court in the case of Commissioner Vs. Steel Authority of India, as reported in 2008 (225) ELT A-130 (SC) and by this Tribunal also in the case of Wipro Information Technology Vs. Commissioner of Central Excise Bangalore, as reported in 1999(107) ELT (467) (Tri. Mad) as well as Hon'ble Orissa High Court in the case of M/s. Hope Cardamom Estate Ltd, Hooghly Vs. Commissioner Central Excise & Customs, Bhubhneswar-1 passed on dated 16.08.2022 holding that Corrigendum/ addendum /revised notice making material changes in the original notice that alters materially the original SCN, being time barred, no proceedings can be initiated or no order can be passed in respect of said time barred notice.

6. Contradicting the said submission, Ld. Authorised Representative Mr. Krishna Azad, Asstt. Commissioner for the Respondent Department with reference to the decision of Hon'ble Supreme Court passed in the case of Collector of Central Excise, Calcutta Vs. Pradyumna Steel Ltd reported in 1996 (82) ELT 441(S.C.), argued that mere mentioning of wrong provision of law or a different provision is itself not sufficient to invalidate the proceedings under Excise Act. With reference to CESTAT's judgment passed in the case of M/s. Bansal & Sons Vs. Commissioner of Customs, reported in 2009 (243) ELT 543 Trib, he further argued that, if notice has provided sufficient details regarding the amount of duty demanded, goods involved and the reasons for demand, omission of statutory provisions did not invalidate the proceedings for which order passed by the Commissioner (Appeals) need not be interfered with.

7. We have gone through the written note of submissions and relied upon judgments filed by the adversaries. At the outset, it is to be noted that in this case legality of confirmation of demand has not been the main issue to be determined since appellant had not seriously objected to such confirmation as late export order was issued on the date of notification, which as per Section 16 of the Customs Act, would determine the application of rate of duty on the goods meant for export. What is required to be determined here is, if notice sent originally on dated 03.10.2008, has been adjudicated or adjudication was initiated after Corrigendum to the said demand notice dated 03.10.2008 was issued on 11.04.2013, which was admittedly received by the appellant on 05.08.2013 as revealed from the para 4.3 of the order passed by the Commissioner? Needless to mention here that corrigendum has referred to the provision of law that empowers the proper officer to issue Show Cause and it has substantially changed the content of original notice in making various amendments to the description of goods, its quantity etc., apart from the fact that adjudication process had been initiated only after issue of corrigendum and receipt of reply from the appellant to such corrigendum. This would lead us to conclude that corrigendum is part and parcel of the notice and as no adjudication had taken place prior to that, nor there was any basis in the original notice for initiation of adjudication process since the provision of law has not been referred under which demand has been raised, the facts of this case are therefore completely different from mentioning a wrong provision while putting forth the right claim. On the other hand mentioning of provision of Customs Act namely Section 28 of the said Act, without its extended provision, has not authorized the proper officer to issue a Show Cause almost at the close of five years since the limitation prescribed under Section 28 is restricted to one year from the relevant date and as we have already opined that service of notice is completed on the day of issue of corrigendum i.e. on 11.04.2013 that was received by the appellant on 05.08.2013, duty demand for an export made on 10.05.2008 is clearly hit by the period of limitation as prescribed under Section 28 of Customs Act. Hence the order;

The Order

8. The appeal is allowed and Order-in-Original No. Commr./Adj./Cus/17/2013-14 dated 29.11.2013 passed by the Commissioner of Customs Panaji, Goa in confirming duty demand of Rs. 16,54,073/- with interest on five shipping bills cleared on dated 10.05.2008 for shipment is hereby set aside with consequential relief, if any.

(Order Pronounced in the open court on 04.08.2025)

(Dr. SUVENDU KUMAR PATI)
MEMBER (JUDICIAL)

(ANIL.G.SHAKKARWAR)
MEMBER (TECHNICAL)