

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH**

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 61036 of 2019

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-2592-2594 dated 01.07.2019 passed by the Commissioner (Appeals), Customs, Ludhiana]

M/s Shri Balaji International
Harchand Mill Road, Motia Khan, Near
Arun Sohal Workshop, Mandi,
Gobindgarh, Punjab-147301

.....Appellant

VERSUS

Commissioner of Customs, Ludhiana
Customs House, ICD-GRFL Complex, G.T. Road,
Sahnewal, Ludhiana - 141120

.....Respondent

WITH

Customs Appeal No. 61037 of 2019

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-2592-2594 dated 01.07.2019 passed by the Commissioner (Appeals), Customs, Ludhiana]

M/s Shri Balaji International
Harchand Mill Road, Motia Khan, Near
Arun Sohal Workshop, Mandi,
Gobindgarh, Punjab-147301

.....Appellant

VERSUS

Commissioner of Customs, Ludhiana
Customs House, ICD-GRFL Complex, G.T. Road,
Sahnewal, Ludhiana - 141120

.....Respondent

AND

Customs Appeal No. 61038 of 2019

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-2592-2594 dated 01.07.2019 passed by the Commissioner (Appeals), Customs, Ludhiana]

M/s Shri Balaji International
Harchand Mill Road, Motia Khan, Near
Arun Sohal Workshop, Mandi,
Gobindgarh, Punjab-147301

.....Appellant

*VERSUS***Commissioner of Customs, Ludhiana**

Customs House, ICD-GRFL Complex, G.T. Road,
Sahnewal, Ludhiana - 141120

.....Respondent**APPEARANCE:**

Shri A.S. Gill, Advocate for the Appellant

Shri Anurag Kumar, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)**HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)****FINAL ORDER NO. 60150-60152/2026**

DATE OF HEARING: 03.02.2026

DATE OF DECISION: 16.02.2026

P. ANJANI KUMAR:

Shri Balaji International filed three bills of entry No.3115287, 3115277 & 3115270 all dated 05.09.2017 for clearance of scrap of alloy steel claiming classification under 7204 2990 of CTA, 1975. Officers of SIIB, Customs House Ludhiana examined the goods and obtained the opinion of a Chartered Engineer; the officers seized the impugned goods on 09.10.2017 under the reasonable belief that they are mis-declared and are liable to be confiscated; on the request of the appellant, provisional release was given on payment of duty, interest and the bank guarantee; on completion of the investigation, a show cause notice dated 08.02.2018 was issued and was adjudicated vide order dated 27/28.09.2018 reclassifying the goods under 7224 9099 as alloy steel bars; imposing redemption fine and penalty; on an appeal filed by the appellants, Commissioner

(Appeals) vide impugned order dated 26.06.2019/ 01.07.2019 upheld the order of the lower authority. Hence, these appeals.

2. Shri A.S Gill, learned counsel for the appellants submits that Revenue failed in classifying the goods as per the relevant section/ chapter notes of the Customs Tariff Act and have not followed the judicial precedence. He takes us through the definition of 'Waste and Scrap' under Section XVI and submits that metal waste and scrap is generated from the mechanical working of metals and includes metal goods which are not usable as such due to breakage, cutting up, wear and tear or other reasons. He submits that in the instant case, the goods are not usable as such and were appropriately classified under scrap.

3. Learned counsel submits that the appellate authority has erred and mis-interpreted the opinion/ report given by the chartered engineer; the appellate authority finds that the chemical composition of the impugned goods shows that chromium, molybdenum, vanadium, nickel and manganese were present in more than minimum proportion and therefore, chemically, the material is classifiable under 7224. He submits that the opinion of the chartered engineer is categorical in holding that as the proportion of the elements cited above were in more proportion, the goods were not fit for the intended use. Learned Counsel also submits that the impugned orders revaluated of the goods without proper justification for enhancement and without referring to any contemporaneous prices; learned Commissioner wrongly relied on

the case of Kisco Casting Ltd – 2018 (354) ELT 1084 (Tri. Chd.); the same is not applicable as unlike in the instant case, the importers therein have accepted the enhancement.

4. Shri Anurag Kumar, learned Authorized Representative for the Revenue reiterates the findings of the impugned orders.

5. Heard both sides and perused the records of the case. We find that Revenue attempts to reclassify the waste and scrap imported by the appellants under the heading of 'Primary Goods' for the reason that the chemical composition shows chromium, molybdenum, vanadium, nickel and manganese were present in more than minimum proportion. We find that the original authority and the appellate authority have given a go-bye to the relevant section and chapter notes particularly those defining waste and scrap. We find that Section Note 8 to the Schedule 1 of Customs Tariff Act provides as follows:

8. In this Section, the following expressions have the meanings hereby assigned to them:

(a) waste and scrap:

metal waste and scrap from the manufacture or mechanical working of metals, and metal goods definitely not usable as such because of breakage, cutting-up, wear or other reasons.

(b) Powders:

products of which 90% or more by weight passes through a sieve having a mesh aperture of 1 mm.

6. We find that the impugned orders grossly ignored the fact that the impugned goods are not usable as prime material as sought to be classified by the department. It is not the case of the department

that they have concrete evidence to establish that the imported goods were 'alloy steel bars'. We find that the chartered engineer has reported as follows:

3. The material samples of whole lot were checked for steel chemical composition and tested. The grade found was alloy steel Composition in the variable range of 7.69-8.6% Chromium, 1.61-7.12% Molybdenum, was Grade P-91 having metallic 139-1.8% vanadium, 0.25-0.57% Nickle, 0.16-2.6% Manganese and 88.05%-93.50% age of ferrous There was no printing facility available with X-R-F Analyser so the print outs of the metal composition of the tested samples were not taken out. However the snapshot of the XRF Analyser were taken and print of the same along with photograph of the consignment is enclosed herewith for persual of the Customs Authorities. Ascertained weight of the consignment as per weighment slip was 99430 Kgs. Suggested CIF price of the material is USD 425/MT.

4. In my opinion, the material is off specification and have huge difference in the readings found as compared to standard grade specifications downloaded from the internet(copy enclosed). Vanadium & Molybdenum presence in the material is quite high which will alter the properties and makes it unsuitable for intended use. This material is having its application in steam boilers, boiler tubes, boiler drums, pressure vessels and withstand temperature upto 650 degree centigrade and is very specific and involves safety of the boiler hence off specification material can not be used. It seems that the stated material was rejected due to improper composition as found above. Hence the material can not be used as such, as such alloy steel composition has no other diversified use and is suitable for melting purpose only.

7. In view of the above, we find force in the argument of the appellants that the appellate authority concludes that the impugned goods are not 'waste and scrap' only on the basis of the composition as given by the chartered engineer. At the same time, the authorities grossly ignored the categorical finding given by the chartered engineer that the goods are of specifications and cannot be used for the original intended purpose. Under the circumstances, when the impugned goods of metal are to be used for the purposes of scrap only. The department has not given any reliable evidence to assume that the impugned goods are not scrap. Therefore, the classification arrived at by the authorities and the consequential re-valuation are not sustainable under law. Accordingly, the impugned order is liable to be set aside. Thus, we set aside the impugned order and allow the appeals with consequential relief, if any, as per law.

(Order pronounced in the open court on 16/02/2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)