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

REGIONAL BENCH – COURT NO. 2

Customs Appeal No. 75786 of 2024

(Arising out of Order-in-Appeal No. KOL/CUS(PORT)/KS/96/2024 dated 15.02.2024 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Swift Strips India Private Limited : Appellant
Room No. 307, Akashdeep Plaza, Golmuri,
Jamshedpur, Jharkhand, PIN – 831 003

VERSUS

Commissioner of Customs (Port) : Respondent
Custom House, 15/1, Strand Road,
Kolkata, West Bengal, PIN – 700 001

APPEARANCE:

Shri Arijit Chakrabarti, Advocate, for the Appellant

Shri Ashwini Kr. Choudhary, Authorized Representative, for the Respondent

CORAM:

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

FINAL ORDER NO. 76612 / 2026

DATE OF HEARING: 04.11.2026

DATE OF DECISION: 18.11.2026

ORDER: [PER SHRI R. MURALIDHAR]

The appellant has imported "Aluminium Scrap Taldon as per ISRI" vide Bill of Entry No. 8932935 dated 02.06.2022 by classifying the same under CTH 7602 0010 with the declared CIF value of 554 EURO per M.T.

2. A query was raised by the Revenue for enhancement of value on the basis of contemporaneous import and the appellant was asked to declare London Metal Exchange (in short 'LME') value as on date of Bill of Lading. Thereafter, the value

of the consignment was enhanced to 1723 EURO per M.T. by the Faceless Assessment Group.

3. A Show Cause Notice was issued on 19.12.2022 seeking to change the classification of the goods from "Aluminium Scrap Taldon as per ISRI" falling under CTH 7602 0010 to "Other Aluminium Waste and Scrap" falling under CTH 7602 0090.

3.1. After due process, the Order-in-Original dated 28.02.2023 came to be passed, reclassifying the goods under CTH 7602 0090, redetermining the value of the goods at Rs.78,16,672/-, confirming the differential duty demand of Rs.11,26,699/-, ordering confiscation of the goods but allowing the same to be redeemed against payment of Redemption Fine of Rs.7,50,000/- and imposing a penalty of Rs.7,50,000/- on the appellant.

3.2. Against the said order, the appellant preferred an appeal before the Ld. Commissioner (Appeals), which came to be dismissed vide the impugned order.

3.3. Therefore, the appellant is before the Tribunal.

4. The Ld. Counsel appearing on behalf of the appellant submits as under: -

(i) That it is submitted that the allegation of mis-declaration of the imported goods is not maintainable in law inasmuch as the same was only upon visual inspection and opined to contain some medical waste, municipal waste and plastic waste without specifying its quantity etc. Such a blunt and vague visual examination cannot be basis of allegation of mis-declaration.

(ii) That further, the enhancement of value on the basis of prevailing LME price of Aluminium Scrap

Taldon while the goods are denied to be Aluminium Scrap Taldon is an act of self contradiction on the part of the Customs Authority. The enhancement of value is not supported by any contemporaneous price of the goods classified as 'Other Aluminium Waste & Scrap' and hence, such re-determination is seriously bad in law.

(iii) That there is no change in the rate of duty of 'Aluminium Scrap Taldon' and 'Other Aluminium Waste & Scrap' and as such, there cannot be any malafide on the part of the appellant in the alleged mis-declaration.

(iv) That the goods were described/ declared in the Bill of Entry as per the import documents and there cannot be any question of mis-declaration on the part of the appellant.

(v) That the agreement of the appellant to the enhancement of value on the EDI system at the first instance was on sole intent to get the goods cleared without going into further litigation and the same cannot be considered to be waiver of any right of the appellant to challenge the arbitrary enhancement of the value. There being no evidence in support of the purported re-valuation and/or any additional payment by the appellant to the foreign exporter over and above the declared value of import, the Declared Value should be considered appropriate Assessable Value without any enhancement. This is settled position of law that unless the Department is in a position to show that the Declared Value is not proper and correct and the import documents are forged

and fabricated in nature, the enhancement of value after rejection of Declared Value is absolutely bad in law.

(vi) That the entire act of the Customs Authority in the present case is highhanded and malafide inasmuch as they have considered the goods as 'Aluminium Scrap Taldon' while determining its value as per LME price but they have classified the goods as 'Aluminium Waste & Scrap' for the purpose of confiscation and imposition of purported redemption fine and penalty upon the appellant importer, which cannot sustain in law.

(vii) That if there is no question of re-valuation of the goods, demand of differential duty shall fail consequentially in the present case. That, accordingly, the re-classification of goods, confiscation of import consignment, demand of differential duty and imposition of redemption fine and penalty in the present case is seriously bad in law and is liable to be set aside and quashed with consequential relief in favour of the appellant. The appellant relies upon various case laws in support of the above contentions.

4.1. In view of the above submissions, it is prayed by the Ld. Counsel for the appellant that the impugned order be set aside and the appeal be allowed.

5. On the other hand, the Ld. Authorized Representative of the Revenue reiterates the detailed findings of the lower authorities and justifies the confirmed demands.

6. Heard both sides and perused the appeal papers.

7. We find that the appellant has declared the goods in question as "Aluminium Scrap Taldon as per ISRI" and classified the same under CTH 7602 0010, declaring the CIF value as 554 EURO per M.T. based on the transaction value available in the invoices and other documents placed by them before the authorities.

7.1. However, the Revenue officials have gone ahead and increased the said value to 1723 EURO per M.T.

8. As per the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, when the value declared by an importer is doubted, it is for the Customs officials to follow the said rules sequentially and thereafter arrive at the re-determined value. In this case, there is nothing on record to show that the sequential order of these Rules has been followed by the Revenue while re-determining the value at 1723 EURO per M.T. The Revenue has also not come out with any detail or proof to substantiate as to how this value of 1723 EURO per M.T. has been arrived at by them. There is also no evidence to indicate as to whether the Revenue had received any information about any extra amount being paid by the appellant over and above the transaction value of 554 EURO per M.T., which has been shown in the invoices raised by the overseas exporter.

9. In view of the above factual details, we do not find any merits in the enhancement of value done by the Revenue in the present case. Hence, we set aside the enhancement of value at the rate of 1723 EURO per M.T. as done in the impugned order and hold that Customs duty is payable only as per the invoice value of 554 EURO per M.T., as declared by the appellant.

10. Insofar as the order of confiscation of the goods is concerned, we note that the Revenue's entire stand in this regard is that the imported goods were not "Aluminium Scrap Taldon as per ISRI" as declared by the appellant but are appropriately re-classifiable as "Other Aluminium Waste and Scrap". However, we observe that while determining the value as per the LME price, the Revenue has themselves classified the goods as "Aluminium Scrap Taldon". Further, the Revenue has failed to come out with any concrete evidence in this regard. We also find that the Basic Customs Duty does not change irrespective of whether the item is classified under CTH 7602 0010, as claimed by the appellant-importer, or under CTH 7602 0090, as claimed by the respondent-Revenue.

10.1. Considering the above, we do not find any justification in confiscation of the goods. Accordingly, we set aside the order of confiscation and the consequent imposition of redemption fine on the appellant.

11. To summarize: -

(i) The value of goods as adopted by the appellant-importer of 554 EURO per M.T. is correct and accordingly, set aside the confirmed demand of duty based on enhancement of value.

(ii) The order of confiscation of the goods in question as well as the consequent imposition of redemption fine is set aside.

12. The impugned order stands set aside and the appeal is allowed, with consequential relief, if any, as per law.

(Order pronounced in the open court on **18.11.2026**)

Sd/-

(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd