

ORDER IN APPEAL

The subject appeals nos. 315/BR/2017 dated 29.05.2017 and 381/BR/2017 dated 29.05.2017 are filed by M. K. Shipping & Allied Industries Pvt. Ltd., Plot No. 121, Ship Breaking Yard, Mang. Distt.-Bhavnagar, having their office at 12F6/6, Sanar Park, Opp. Madhav Baug, Waghawad, Road, Bhavnagar (hereinafter referred to as 'the appellant no.1') and by Shri. Yousuf Kishore Barseji, Director of M/s. M. K. Shipping & Allied Industries, 82/F, Mang. (Bhavnagar), (hereinafter referred to as 'appellant no.2') respectively, against Order in Original No. J/902/KJFAL/BR/BR/2016-17 dated 20.03.2017 (hereinafter referred to as 'the impugned order') passed by the Assistant Commissioner, Central Excise, Kura, Division Bhavnagar (hereinafter referred to as 'adjudicating authority'). This Order in Appeal is being passed in response to appeals filed by both the appellants nos. 1 & 2.

2. There was a delay of about 27 days in filing the appeal and therefore the appellants filed separate miscellaneous applications to condone the delay in filing the appeals. The prime reason given by the appellants for the delay is due to the fact that the Director i.e. the appellant no.2 who looks after the entire business of the company, was initially undecided and thereafter had to go out of Gujarat due to business and social commitments and resultantly by the time he returned and filed the appeals, a period of 27 days beyond the permissible period of 45 days had already passed. On account of aforesaid reasons, they prayed for considering their request sympathetically and to condone the delay. In accordance with the powers vested in me vide Section 15(1) of the C. Ex. Act, 1944 and the cause of delay being bona-fide and within the maximum permissible period of 45 days, I condone the delay of 27 days.

3. Further, in accordance with the provisions of Section 35-F of C. Ex. Act, 1944 the appellants have paid mandatory deposits at the rate of 7.50% each of the total excise duty & the confirmed penalties, amounting to Rs. 2,75,821/- each. I therefore, admit the appeals.

4. The appellant no.1 is engaged in the activity of obtaining goods and materials by breaking of ships, boats and other floating structures which amounts to manufacture in terms of Note 5 of Section XV of the First Schedule to the Central Excise and Act, 1985 and was registered with the Central Excise having registration no. AACUM/0503EXM011. The appellant no.1 was availing credit of C&D paid at the time of destruction of ship etc under the provisions of section 169 of the CENVAT Credit Rules, 2004.

5. Briefly stated, the Directorate General of Central Excise Intelligence (hereinafter referred as DGILL, for brevity) gathered an intelligence which indicated that the ship breaking units of Mang. Distt. Bhavnagar were engaged in large scale evasion of Central Excise Duty by way of camouflage removal of Plates to the Rolling Mills, diversion and illegal utilization of goods etc. with the aid of deputed brokers and commission agents.

Sd/-

6. Therefore, search operations to recover documents and records of evidence, were conducted at the premises of various Ship Breaking Units and certain Rolling Mills and some of the major transporters and statements of their concerned active persons were recorded under section 17 of the Central Excise Act -1944. Search was also conducted at the premises of the appellant M/s M. K. Shipping & Allied Industries Pvt. Ltd. and statement of Shri. Manoj Kumar Bhasin, Director recorded. Statements of the brokers were also recorded during searches.

7. On the basis of the investigation carried out by the DGCI it was alleged that iron & steel scrap was cleared clandestinely from Plot No. 121 belonging to the appellant, without issuance of invoices. It was alleged that the transporters supplied trucks for loading of scrap, specifically to the unit /plot number of Aany ship breaking yard for which demand was made either by the unit or the broker through whom scrap was sold by the said unit whose plot number appeared in the Drawing/booking registers. On the basis of the investigation it was alleged that as per the official record of Gujarat Port Trust Board i.e. gate registers, in these cases, trucks so indexed and supplied by the transporters had entered the Aany Ship Breaking yard for loading of scrap from the appellant's premises and thereafter the loaded trucks usually weighing 42 MT were cleared without issuance of invoices and without payment of appropriate Central Excise duty of excisable goods obtained from breaking of ships valued at Rs.11,20,000/- involving Central Excise duty of Rs.1,20,102/-.

8. From the investigation conducted by DGCI, in respect of suppression of actual value and under valuation of dutiable goods by the appellants it was alleged that the appellant was clearing their goods by suppressing the value of the scrap for the period from 01.01.2010 to 30.03.2011. The DGCI conducted a study of the day to day price movement as determined by the various market research agencies of Iron & steel, bringing more breakage of ships. It was observed that in order to sell their goods at maximum rates, the Ship Breakers / Owners / Buyers subscribed to the data or latest prevailing price circulated by various market research agencies and concluded that considering all the factors of demand and supply, the prices circulated by such agencies were realistic; that the price depended on the average thickness of scrap steel; It was alleged that by not declaring the actual size / thickness of MS Plates in the Central Excise Invoices, and only declaring their generic description such as "Old & Used Plates", "Waste & Scrap of Iron & Steel", "Waste Scrap of Cast Iron", "Article of Iron & Steel", "Waste & Scrap of Propeller", "Waste & Scrap of Shell and Fract" etc., the appellant was suppressing the quality of the steel and, undervaluing the MS & other plate plates so as to enable them to declare only part of the value of such goods in the invoices and collect the differential value, over and above the declared invoice value, by way of unaccounted cash amounts. It was alleged that they resorted to non declaration of actual description of scrap obtained from the ship breaking and thereby evaded the goods and

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Applied suppressed rates.

9. The adjudicating authority confirmed the Show Cause Notice adding that Notices No.2 have undergone unlawful activities by way of illegal clandestine removal of excisable goods, undervaluation of goods/fraudulent passing on of Central Excise and wherever the duty since paid on account of variation of price was more than 2% it was on account of undervaluation of the goods and was rightly recoverable from the appellant in view of contraventions of Sections 2 & 4 of the Central Excise Act, 1944 & Rules 4,6,8, 10,12 & 12 of the Central Excise Rules, 2007 and passed the following order confirming:-

- I. Central Excise duty of Rs.1,20,132/- (BEO Rs. 1,74,400/- + Ed. Cess Rs.2,488/-+ HSC Rs.1,201/-) on account of clandestine removal of goods.
- II. Central Excise duty of Rs.15,70,194/- (BEO Rs. 34,45,151/- + Ed. Cess Rs.66,932/-+ HSC Rs.24,432/-) undervaluation of scrap, totally amounting to Rs.26,77,616/- (BEO Rs.25,09,531/- + Ed. Cess Rs.71,091/- + HSC Rs.75,994/-)
- III. The cost under section 11A9 of the Act or the Central Excise duty.
- IV. Equal penalty of Rs. 26,77,616/- (Rupees Thirty Six Lacs Seventy Seven thousand Six Hundred and Sixteen Only) on the appellant under rule 25 of the Central Excise Rules, 2007 read with Section 11A9C now Section 11A9C(1)(a) of Central Excise Act, 1944.
- V. Penalty of Rs. 26,77,616/- (Rupees Thirty Six Lacs Seventy Seven thousand Six Hundred and Sixteen Only) under the provisions of Rule - 26 of the Central Excise Rules, 2007 in San Moulik & share baras . Appellant's cost.

10. The appellants filed their appeal on the following grounds and regarding clandestine removal of goods interalia contended that:-

A. The SCM has been fully developed on the basis of private records i.e. T19/Booking register and misc. papers seized or collected from the premises of transporter companies or truck owners or Aang/Uhaensagar area and statements of various commission agents and private records maintained by other unregistered and casual business entities. They have shown following case files in support of their contentions:

1. 2005 (186) LIT-587 (H' Delhi), M/s. Bharat T. Mfg. Pvt. Ltd vs. CCE Delhi-1.
2. 2007 (218) LIT-700 (H' Chand.), M/s. Ganesh Casting M/s. CCE, north-II.



3. 2004 (177) ELT 579 (T1-Delhi); Mrs. Ratilal A. Umrao Am Da. (T1-Delhi).
4. 2006 (198) ELT-108 (T1-Mum); Mr. Jagannath Premnath V/s. CC-Mumbai.
5. 2006 (197) LL-221 (T1-Del); Mr. Pradeep Sah V/s. CC-Patna.
6. 2004 (166) LL-291 (T1-Mum); Mrs. Ashwin M. Forna V/s. CC-Annedabst.
7. 2011 (272) LL-146 (T1-Mum); V/s. Subashram Sweets Pvt. Ltd., V/s. CCL-annedabst-II. (Para-22)

H. Permission by the appellant for cross examination of certain persons to ascertain the factual position was not accepted and cross examination was not allowed to the appellant.

C. A demand should be based on corroborative documentary and unimpeachable documentary evidences such as purchase of excess raw material, excess consumption of electricity, mode of payment between consumer and consumer, which was not the case here, the SOA & its confirmation was based on the statements of transmitters and other routine & casual persons, who did not have knowledge of excess use and simply signed the statements as dictated by the DCCLT authorities. They have cited the following case laws in support of their contentions:

1. V/s. Sakshi (Sakshi India Pvt. Co.), V/s. CCE, Mumbai-2003 (152) ELT 31 (T1).
2. V/s. Deepak Textiles V/s. C C E-Bhubaneswar, 2000 (128) LL-1079
3. Mrs. Dadi's sugar mills Ltd., V/s. CCE, 1978 (2) ELT-172 (SC).

D. It is a established fact that simply contradictory statements recorded under mental pressure should not be the sole reason and ground for confirm clandestine removal and valuation; V/s. Orient Enterprises V/s. Commr., reported at 1990 (23) B.L. 307 (T1).

F. The appellant was statutorily bound and maintained all the essential statutory and prescribed returns at excise department and also regularly submits all the periodic returns and information to the department in a timely and accurate manner. Their goods were accounted for in a proper manner in the statutory records i.e. "Daily production register" maintained by the appellant. The balance of their final product was correctly entered in "Daily production register" at the disposal side; that entries with regard to production and issue/sale of the said excisable goods were timely and accurately carried out by the appellant in all the statutory records as well as other private records which were not verified.

[Signature]

F. That weightment of the excisable goods sold by company were carried out at the weighbridge approved by Central Excise department and proper weightment slips were issued in each transaction and handed over to the truck driver at the time of clearance of said excisable goods and also one copy was kept on the appellant's company's records, that the records showing the exact statistical data of excisable goods produced, purchased and handled by the appellant were not objected to by the proper local excise authority and the company had never faced a single query in this regard; that department has ignored the examination and verification of appellant's own statutory records.

G. That recovery of Kashita slip and statements of third party were not admissible evidence and also further observed that statement of authorized representative of third party cannot be held valid evidence to uphold clandestine removal and possession of penalty.

11. Regarding undervaluation of metal scrap clearances, they inter-alia contended that :-

A. There is no provision anywhere in the law by which the assessee should fix the price of excisable goods on the basis of price declared and declared by the authorized private valuation institutes based at Portico, Govindgarh and other places.

B. The appellant authority totally failed to detect a single case of cash flow from the Angadia or any other agency/person, who actively support in carrying out such undesirable activities.

C. The local excise staff officers had also periodically and timely audited all the statutory records at certain intervals and they had never objected and doubted in any transaction (sale mechanism or pattern including approval etc).

D. Similarly the Income tax authorities have also never doubted or objected with regard to financial transaction so carried out by the appellant with their various customers.

E. The department could not detect even a single instance or seizure of cash amount which leads to prove that the appellant was involved fraudulently in any type of clandestine activity.

F. That request for cross examination of the officers of BSOFI who had investigated the case of undervaluation was not granted by the adjudicating authority.

7. That price at which they had sold and delivered their final products/goods at their factory date is considered and generally known as "TRANSACTION VALUE" and excise duty is being paid on this value; that the DGCI authorities failed to understand or examine the norms of determination of sale price of excisable goods in C. Ex. valuation Rules, and fully trusted on the sale price determined and received by the unregistered and private institutes most of which are situated outside their factory. That their description value was determined as per the then existing C. Ex. Rules, the Department cannot challenge it without proper valid and unimpeachable documentary evidence and the documents that were taken into consideration by the authority to challenge their price appear to be incomplete and not supported by provisions of the law.
8. That the appellant is an excise registered unit and had filed various prescribed formal/quarterly report/returns but such returns were never challenged by the department including during inspection.
9. That in the Ship Breaking yard along the price of excisable materials is always determined depending on quantity to be purchased, quality/brands of the excisable goods, terms and condition and requirement of specification by buyers/customers, terms & condition of payments that present in the case which qualify and justify the valuation of the said unit concerned.
10. That the authority has failed to establish conclusively that the appellant had the deliberate defiance of law by the appellant to various Govt. revenue.
11. The appellant placed reliance upon judgement in a SLP of the Hon. of India *M/s. K/s. Kamalash, Channa Corporation- 1991 (3) LIT-631 (SC)* and *M/s. Dabur India Ltd., M/s. State of U.P. referred at AIR-1991 (SC) 1911.*

12. Regarding imposition of penalty on the appellant they contended that the same cannot be imposed only on the basis of material which simply points out to a possibility of clandestine activity; that Division Bench of J.P. High Court in the case of M/s. Ashi Crystal, Dabur Ltd. referred at AIR (2021) 1-151 (J.P. HC) held... "*that the burden was on the Revenue to adduce evidence to prove that excess goods had been manufactured. The private records of officers were said a piece of evidence but it could not be a sole factor in deciding false production*"

13. The appellant no.2 filed the appeal reiterating the contentions already set forth by the appellant no.1 and further added that

1. On the day of the so called and alleged fraudulent removal of excisable goods the appellant no.2 was having sufficient balance in the Central credit accounts of the appellant's company and

There was no reason for them to put their prestige at stake for such a meagre amount of excise duty;

2. The company of the appellant no.2 has been penalised under the provision of Section 11-AI of the Act, and the appellant no.2 who is a Director of the company has also been penalised separately under Rule-26 of the Rules; it is unfair and unlawful to penalise twice for the same offence and that simultaneous penalty is against the spirit of statutory provisions and hence they are not liable for any penalty under rule-26 of the Rules; they cited the cases of M/s. Kartalaka Guptha & Spinning factory V/s. Customs C. Ex. Mumbai reported at 2002 (150) LLJ-310 and M/s. M/s. Harise Gya V/s. Customs C. Ex. & Cus. Surat-I as reported in 2001 (138) FIJ 747 (T.D. Mur) and the case of Suprasawar C. Ex. V/s. Jyothy Exports;
3. The Department failed to produce tangible documentary evidences to corroborate its actions, for example the investigating officers could not take out the concerned driver to record their statements, seized weigh bridge meters' statements, statement of recipient units, verification of register maintained at Customs & C. Ex. main gate, details regarding payments received from the consignees in the Books of account/ledger and also failed to carry out physical stock verification of tele-arc finished goods lying in the appellant's plot on the day of seizure of documents so as to arrive at the exact conclusion of quantity removed clandestinely. The department also failed to contact bank authority to know the transaction at the appellant at least for veracity of a cheque so developed by the authority.
4. The appellate no.2 passed for setting aside and quashing the Order in Original (OIG) No. 57/02/KURAI/RR/RR/2016-17 dated 20.03.2017, issued by the respondent authority under his No.15-23/Ady/DGTR/HC/2012-13 in totality and consequently issuing an order directing the respondent authority not to initiate any coercive action to recover the duty confirmed and penalty imposed on the appellant till the date of final decision of the appeal and to grant protest boning to the appellant.

14. Persons hearing in the matter was held on 13.02.2019, which was attended by Shri A.L. Das, Excer Consultant of the appellant. He appeared and reiterated the submissions made in his defence reply and the records of appeals on behalf of appellants no.1 & 2.

15. The FCI (Excise) authority has passed Order in Original No. 57/02/RR/RR/2016-17 dated 20.01.2017 confirming the Central Excise duty amount of Rs.36,77,110/- and imposing equal penalty on the appellants no.1 & 2 under Section 11AII of the Central Excise Act -1944 and

Rule 25 of the Central Excise Rules, 2002 respectively along with the applicable interest under Section 11AB of the Act, 1944. I take up both appeals for decision by this one combined order.

16. I have carefully gone through the impugned order passed by adjudicating authority, the submissions made by the appellants in the appeal number 1, as well as by Shri A.H. Gze, Excise Consultant of the appellants at the time of personal hearing and the various case laws cited by them. I find that the issue to be decided is - whether the appellant was actively involved in clandestine removal of his goods viz Iron Bars & Reels obtained from the activity of ship breaking at the Aang ship breaking yard and secondly under valuation of the impugned goods and consequently whether:

- (a) the appellant no.1 is liable to pay Central Excise duty on the goods so removed clandestinely.
- (b) the appellant no.1 is liable to pay the differential Central Excise duty for goods so cleared by appraising their value.
- (c) The appellant no.1 is liable to penalty equal to duty.
- (d) The appellant no.2 is liable to any personal penalty equal to the duty so found due.

17. To sum up the charge of clandestine removal once again, the adjudicating authority has confirmed the charge holding that - "It, therefore, find that in respect of those entries contained in Shipbreaking Registers pertaining to Notices No. 1 where no corresponding invoices are issued goods have been cleared clandestinely without payment of Central Excise duty by Notice No. 1, therefore, in respect of 08 entries contained in Shipbreaking Registers pertaining to Notice No. 1 where no corresponding invoices are issued, goods have been cleared clandestinely without payment of Central Excise duty by Notice No. 1, thus, Notice No. 1 has cleared the 82 MT of ship-breaking goods valued at Rs.14,20,000/- involving C. Ex. duty totaling amounting to Rs.1,29,132/- clandestinely i.e. no Central Excise invoices have been issued for such transactions. In view of the above, I hold that allegation of clandestine clearance of excisable goods involving C. Ex. duty totaling amounting to Rs.1,29,132/- made in Show Cause Notice is proved satisfactorily."

18. It is observed that the appellants have primarily inter alia contended - "to demand should be based on corroborative and an impracticable documentary evidence supported by proof of purchase of excess raw materials, excess consumption of electricity, mode of payment between consignee and consignee etc., which is not the case here; that the SCN is based on various records and statements of foreign purchase commission agents, brokers etc. Whereas the vital documents of the appellants relating to purchase,

production, electronic etc. have not been scrutinized; that cross examination of the usual persons such as transporters, brokers and commission agent's and the DCCEI officers who receive the statements and carried out the investigations pertaining to undervaluation of goods was not accepted and was not granted by the adjudicating authority; that no case can be booked solely on the basis of the removal of others; that names of the recipient units to whom such clandestinely cleared goods were removed and delivered is not known and could not be pointed out by the investigating agency."

19. The substance in the contention of the appellants in as much as this is a case of excess unaccounted goods cannot clandestinely remove payment of duty. Excess unaccounted finished goods require unaccounted raw materials, however, the adjudication order has not been able to throw any light on these aspects of excess unaccounted purchase of raw materials and production of finished goods. It is observed that, despite repeated requests by appellants, the adjudicating authority did not cross verify the records of the appellant, pertaining to production/declaration and sale of finished goods to further corroborate the statements of the various persons and also the entries of the Tax Registers and Transporter's Registers. The adjudicating order also does not examine any declarations which may have been found with reference to the periodical returns filed by the appellants. The investigations carried out to prove clandestine removal have only pointed out at possibilities of clandestine removal but are not fool proof evidence to make a watertight case in favour of revenue. The adjudicating authority also did not agree for allowing cross-examination of the private usual persons of the transporters, commission agents, brokers etc., based on witness statements the charge of clandestine removal and undervaluation of goods has been confirmed. The adjudicating authority is silent on the reasons for not allowing cross examination of the concerned persons and the officers. Such action of the adjudicating authority seems not in consonance with the quasi-judicial process by not giving the appellants a fair and just opportunity to present their case. Therefore these aspects of verifying the records of the appellant and allowing cross examination of those concerned need to be re-examined in accordance with the principles of natural justice to decide the case in a fair and just manner.

20. Summing up the charge of undervaluation, I find that the adjudicating authority was held - "I, therefore, find and hold that there is no reason to doubt that price quoted by M/s. Major and Minor is actual and valuation of (14-28) i.e. rates of Rates and Stamp 2% hence the rate of M/s. Major and Minor is correct/valid. I, therefore fully agree with the view adopted by DCCEI, that duty short paid on account of variation of price more than 2% is an account of undervaluation of the goods and rightly recoverable from Notice No. 2. Accordingly, I find that the differential duty, as per Annexure No. 1 to the Show Cause Notice to the tune of Rs.35,68,484/- is rightly recoverable from Notice No. 1"

21. It is to be seen from the above that the valuation of the goods has been done on the basis of the prices as received and determined by the various metal trading agencies. The investigations carried out in accordance with various private metal pricing agencies point out to the fact that these private agencies provide regular updates on prices which are the actual prevailing price at a particular point of time, however when the prices charged by appellants are compared with these prices, they are found to be much lower. The investigation only points out on the possibility of under valuation and raises a doubt regarding the authenticity of the prices/valuation as declared by the appellants but the same cannot be said to be the ultimate test of Mines to prove the charge of under valuation. In order to establish the same, the trail of financial transactions, the bank accounts of the appellants, the cash flow from and to the appellants and the Director's was required to be studied and investigated. Under valuation is required to be proved and backed up by financial trail or at least some semblance of the same. The investigation is silent on this vital aspect and has not taken care to check this. This aspect of under valuation requires to be further investigated with reference to the financial transactions. I also find that request for cross examination of the officers who carried out the investigation with regard to the value called of the scrap steel was also not granted by the adjudicating authority. The adjudicating authority is silent on this vital aspect regarding the reasons for not granting the same.

22. It goes without saying that cross-examination of those involved in investigation of the case by the appellant is in accordance with the principles of natural justice and supported by sound legal dictums. The CPEE vide circular No. 1058/02/2017-08 dated 10.03.2017 has in para 14.3 stated as follows: *"Where a statement is relied upon in the adjudicatory proceedings, it would be required to be established through the process of cross-examination. If the witness makes a request for cross-examination of the person whose statement is relied upon in the LCU."*

23. It is a well settled position in law and has been held in a number of cases that an assessee has the right to seek cross examination. In a number of recent judgments too, a similar view has been taken by the High Courts and the Tribunals.

24. The Hon'ble High Court of Gujarat in the case of *Resquey Gony Vs Commissioner Customs* as reported in 2013(254)EIT 355(BEL) has held in Para No.10 of the judgement that - *"It is not as the general proposition are conveyed, there can be no denying that when any statement is used against the assessee an opportunity of cross examining the persons who make those statements ought to be given to the assessee. This is clear from the observations contained in *Brookesh Polytex Ltd.(supra)* and *Leamur Exports Limited (supra)*, apart from this the decision of this court in *SK Cement Ltd. v. ITO (supra)* states the law in terms of law citation."* Further, in Para No.14 of

the judgment that "The Division Bench also observed that though it cannot be denied that the right of cross-examination in any quasi-judicial proceeding is a relative right given to the accusation, as these proceedings may have adverse consequences in the event, at the same time, under certain circumstances, this right of cross-examination can be taken away. The court also observed that such circumstances have to be exceptional and that these circumstances have been stipulated in Section 90 of the Central Excise Act, 1944. The circumstances referred to in Section 90 as also in Section 152B, stipulated circumstances where the person who had given a statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of money and expense which, under the circumstances of the case, the court considers unreasonable. It is clear that unless such circumstances exist, the Appellee would have a right to cross-examine the persons whose statements are being relied upon even in quasi-judicial proceedings.

25. Further, the Hon'ble High Court of Gujarat in the case of Commissioner of Income Tax, Ahmedabad "versus" Dignat Gyromex Ltd as reported in 2017(345) F.T.573(Guj.) in Para No.5 has held that:

confirmation of demand and imposition of penalty without such opportunity was found to be violative of natural justice." To para. 14 of the judgment that "Having heard the learned counsel Shri Darsiben Parthi for the Revenue and having perused the documents on record, it emerges that in this set of cases the irregularity of appeal was that the duty could not have been confirmed and penalty could not have been imposed without offering cross-examination of the important witnesses. The 2nd Member (Judicial) had held that from the beginning the stand of the respondent was that the cross-examinations were necessary. By virtue of such order, the appeals should be placed before the adjudicating authority for de novo consideration for observing principles of natural justice...Awards because the statements, according to the adjudicating officer, were recorded without threat, duress or coercion that the witnesses or no stays restricted their statements, cannot be a ground for rejecting the request for cross-examination."


This it follows that in accordance with the principles of natural justice, especially in a scenario where entire case has been framed on basis of private records and statements of third parties, granting cross-examination of all concerned as stated above assumes prime importance. The records of the appellant also merit scrutiny and cross-verification as requested by them.

26. In view of the foregoing discussion and findings, I remand the case back in terms of the above for verifying and cross-checking the records of the appellant and granting the appellants opportunity for cross-examination of the concerned persons based upon whose statements the

case is relied upon for the purpose of cancellation removal and under seizure of goods as requested by Para. The order for Impartion at parate under section 11AC on the appellants no.1 and the persons para by an appellant no.2 also consequently stand remanded back.

27. The appeals filed by the appellant No.01 and appellant No.02 stand disposed off in above terms.


Commissioner
CGST & Central Excise
Gandhinagar


(Sunil Kumar Singh)
Commissioner (Appeals)
Commissioner,
CGST & Central Excise,
Gandhinagar

By Regn. Post/02

F.No.W2/315/2VF/2017

F.No.W2/307/2VF/2017

Date: 17.04.2018

To,

1. M/s. M.K.Shipping and Allied Industries,
Plot No. 2 , Ship Breaking Yard,
Alang, Sadya. Dist. Bhavnagar.
2. Shri. Maulik Kishore Bhatta .
Director,
M/s. M.K.Shipping and Allied Industries,
Plot No.171, Ship Breaking Yard,
Alang, Sadya. Dist. Bhavnagar

Copy to:

1. The Chief Commissioner, CGST & Central Excise, Ahmedabad.
2. The Commissioner (Appeals), CGST & Central Excise, Rajkot
3. The Commissioner, CGST & Central Excise, Bhavnagar.
4. The Assistant Commissioner, CGST & C. Ex., Rural Division, Bhavnagar.
5. The Assistant Commissioner (Systems), CGST, Talod.
6. The Superintendent, CGST & Central Excise AR 1, SBP Alang.
7. Copy to Appra. F.No.W2/307/2VF/2017 of Shri.Maulik Kishore Bhatta Director, M/s. M.K.Shipping and Allied Industries, Alang.
8. P.O. Commissioner of CGST & Central Excise. Gandhinagar Gandhinagar.