

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

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 75369 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/304-313/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/314/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/315/2023 all dated 28.04.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Rungta Mines Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75370 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/304-313/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/314/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/315/2023 all dated 28.04.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Rungta Mines Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75371 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/304-313/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/314/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/315/2023 all dated 28.04.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Rungta Mines Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

Appeal No(s): C/75369-75372,75375-75380,75556,75559,75565/2023-DB
C/75374,75554,75563,75568/2023-DB [Rungta Mines Ltd., Rungta Sons P. Ltd.]
C/75373,75555,75558,75560,75566,75569-75573/2023-DB [Bonai Ind. Co. Ltd.]
C/75557, 75561,75562,75567,75574/2023-DB [Feegrade & Co. P. Ltd.]

WITH

Customs Appeal No. 75372 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/304-313/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/314/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/315/2023 all dated 28.04.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Rungta Mines Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75375 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/304-313/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/314/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/315/2023 all dated 28.04.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Rungta Mines Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75376 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/304-313/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/314/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/315/2023 all dated 28.04.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Rungta Mines Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

Appeal No(s): C/75369-75372,75375-75380,75556,75559,75565/2023-DB
C/75374,75554,75563,75568/2023-DB [Rungta Mines Ltd., Rungta Sons P. Ltd.]
C/75373,75555,75558,75560,75566,75569-75573/2023-DB [Bonai Ind. Co. Ltd.]
C/75557, 75561,75562,75567,75574/2023-DB [Feegrade & Co. P. Ltd.]

WITH

Customs Appeal No. 75377 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/304-313/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/314/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/315/2023 all dated 28.04.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Rungta Mines Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75378 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/304-313/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/314/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/315/2023 all dated 28.04.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Rungta Mines Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75379 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/304-313/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/314/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/315/2023 all dated 28.04.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Rungta Mines Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

Appeal No(s): C/75369-75372,75375-75380,75556,75559,75565/2023-DB
C/75374,75554,75563,75568/2023-DB [Rungta Mines Ltd., Rungta Sons P. Ltd.]
C/75373,75555,75558,75560,75566,75569-75573/2023-DB [Bonai Ind. Co. Ltd.]
C/75557, 75561,75562,75567,75574/2023-DB [Feegrade & Co. P. Ltd.]

WITH

Customs Appeal No. 75380 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/304-313/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/314/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/315/2023 all dated 28.04.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Rungta Mines Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75556 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/365-367/2023, Order-in-Appeal No. 368-370/2023, Order-in-Appeal No. 371-375/2023 all dated 09.05.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Rungta Mines Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75559 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/365-367/2023, Order-in-Appeal No. 368-370/2023, Order-in-Appeal No. 371-375/2023 all dated 09.05.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Rungta Mines Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

Appeal No(s): C/75369-75372,75375-75380,75556,75559,75565/2023-DB
C/75374,75554,75563,75568/2023-DB [Rungta Mines Ltd., Rungta Sons P. Ltd.]
C/75373,75555,75558,75560,75566,75569-75573/2023-DB [Bonai Ind. Co. Ltd.]
C/75557, 75561,75562,75567,75574/2023-DB [Feegrade & Co. P. Ltd.]

WITH

Customs Appeal No. 75565 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/365-367/2023, Order-in-Appeal No. 368-370/2023, Order-in-Appeal No. 371-375/2023 all dated 09.05.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Rungta Mines Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75374 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/304-313/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/314/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/315/2023 all dated 28.04.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Rungta Sons Private Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75554 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/365-367/2023, Order-in-Appeal No. 368-370/2023, Order-in-Appeal No. 371-375/2023 all dated 09.05.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Rungta Sons Private Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

Appeal No(s): C/75369-75372,75375-75380,75556,75559,75565/2023-DB
C/75374,75554,75563,75568/2023-DB [Rungta Mines Ltd., Rungta Sons P. Ltd.]
C/75373,75555,75558,75560,75566,75569-75573/2023-DB [Bonai Ind. Co. Ltd.]
C/75557, 75561,75562,75567,75574/2023-DB [Feegrade & Co. P. Ltd.]

WITH

Customs Appeal No. 75563 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/365-367/2023, Order-in-Appeal No. 368-370/2023, Order-in-Appeal No. 371-375/2023 all dated 09.05.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Rungta Sons Private Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75568 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/365-367/2023, Order-in-Appeal No. 368-370/2023, Order-in-Appeal No. 371-375/2023 all dated 09.05.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Rungta Sons Private Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75373 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/304-313/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/314/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/315/2023 all dated 28.04.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Bonai Industrial Company Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

Appeal No(s): C/75369-75372,75375-75380,75556,75559,75565/2023-DB
C/75374,75554,75563,75568/2023-DB [Rungta Mines Ltd., Rungta Sons P. Ltd.]
C/75373,75555,75558,75560,75566,75569-75573/2023-DB [Bonai Ind. Co. Ltd.]
C/75557, 75561,75562,75567,75574/2023-DB [Feegrade & Co. P. Ltd.]

WITH

Customs Appeal No. 75555 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/426-434/2023 dated 02.06.2023 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Bonai Industrial Company Limited : **Appellant**
Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

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

WITH

Customs Appeal No. 75558 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/426-434/2023 dated 02.06.2023 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Bonai Industrial Company Limited : **Appellant**
Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

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

WITH

Customs Appeal No. 75560 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/426-434/2023 dated 02.06.2023 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Bonai Industrial Company Limited : **Appellant**
Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

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

WITH

Customs Appeal No. 75566 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/426-434/2023 dated 02.06.2023 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Appeal No(s): C/75369-75372,75375-75380,75556,75559,75565/2023-DB
C/75374,75554,75563,75568/2023-DB [Rungta Mines Ltd., Rungta Sons P. Ltd.]
C/75373,75555,75558,75560,75566,75569-75573/2023-DB [Bonai Ind. Co. Ltd.]
C/75557, 75561,75562,75567,75574/2023-DB [Feegrade & Co. P. Ltd.]

M/s. Bonai Industrial Company Limited : **Appellant**
Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

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

WITH

Customs Appeal No. 75569 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/426-434/2023 dated 02.06.2023 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Bonai Industrial Company Limited : **Appellant**
Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

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

WITH

Customs Appeal No. 75570 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/426-434/2023 dated 02.06.2023 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Bonai Industrial Company Limited : **Appellant**
Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

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

WITH

Customs Appeal No. 75571 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/426-434/2023 dated 02.06.2023 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Bonai Industrial Company Limited : **Appellant**
Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Appeal No(s): C/75369-75372,75375-75380,75556,75559,75565/2023-DB
C/75374,75554,75563,75568/2023-DB [Rungta Mines Ltd., Rungta Sons P. Ltd.]
C/75373,75555,75558,75560,75566,75569-75573/2023-DB [Bonai Ind. Co. Ltd.]
C/75557, 75561,75562,75567,75574/2023-DB [Feegrade & Co. P. Ltd.]

Commissioner of Customs (Port) : Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75572 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/426-434/2023 dated 02.06.2023 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Bonai Industrial Company Limited : Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port) : Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75573 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/426-434/2023 dated 02.06.2023 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Bonai Industrial Company Limited : Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port) : Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75557 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/365-367/2023, Order-in-Appeal No. 368-370/2023, Order-in-Appeal No. 371-375/2023 all dated 09.05.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Feegrade & Co. Private Limited : Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port) : Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

Appeal No(s): C/75369-75372,75375-75380,75556,75559,75565/2023-DB
C/75374,75554,75563,75568/2023-DB [Rungta Mines Ltd., Rungta Sons P. Ltd.]
C/75373,75555,75558,75560,75566,75569-75573/2023-DB [Bonai Ind. Co. Ltd.]
C/75557, 75561,75562,75567,75574/2023-DB [Feegrade & Co. P. Ltd.]

WITH

Customs Appeal No. 75561 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/365-367/2023, Order-in-Appeal No. 368-370/2023, Order-in-Appeal No. 371-375/2023 all dated 09.05.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Feegrade & Co. Private Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75562 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/365-367/2023, Order-in-Appeal No. 368-370/2023, Order-in-Appeal No. 371-375/2023 all dated 09.05.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Feegrade & Co. Private Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

WITH

Customs Appeal No. 75567 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/365-367/2023, Order-in-Appeal No. 368-370/2023, Order-in-Appeal No. 371-375/2023 all dated 09.05.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Feegrade & Co. Private Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

Appeal No(s): C/75369-75372,75375-75380,75556,75559,75565/2023-DB
C/75374,75554,75563,75568/2023-DB [Rungta Mines Ltd., Rungta Sons P. Ltd.]
C/75373,75555,75558,75560,75566,75569-75573/2023-DB [Bonai Ind. Co. Ltd.]
C/75557, 75561,75562,75567,75574/2023-DB [Feegrade & Co. P. Ltd.]

AND

Customs Appeal No. 75574 of 2023

(Arising out of the common Order-in-Appeal No. KOL/CUS(PORT)/KS/365-367/2023, Order-in-Appeal No. 368-370/2023, Order-in-Appeal No. 371-375/2023 all dated 09.05.2023 [passed as a single common order] passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Feegrade & Co. Private Limited

: Appellant

Rungta House, Chaibasa,
Jharkhand – 833 201

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

APPEARANCE:

Shri S.C. Choudhury, Consultant
Shri S.N. Mohapatra, Consultant
for the Appellant(s)

Shri Subrata Debnath, Authorized Representative
For the Respondent

CORAM:

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

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

FINAL ORDER NOS. 77738-77769 / 2024

DATE OF HEARING / DECISION: 05.11.2024

ORDER: [PER SHRI R. MURALIDHAR]

The issue involved in all the appeals is identical and common. Hence, with the consent of both the sides, they have been taken up together for hearing and disposal. For the reference purpose, the appeals of Rungta Mines Limited have been taken up for perusal of relevant documents.

1. The details of the appeals filed by the Appellants are as under: -

Appeal No(s).: C/75369-75372,75375-75380,75556,75559,75565/2023-DB
C/75374,75554,75563,75568/2023-DB [Rungta Mines Ltd., Rungta Sons P. Ltd.]
C/75373,75555,75558,75560,75566,75569-75573/2023-DB [Bonai Ind. Co. Ltd.]
C/75557, 75561,75562,75567,75574/2023-DB [Feegrade & Co. P. Ltd.]

▪ **Rungta Mines Ltd. v. Commissioner of Cus. (Port),
Kolkata**

Sl. No.	Appeal No(s).	Impugned Order No. & Dt.
1	C/75369/2023	Order-in-Appeal No.
2	C75370/2023	KOL/CUS(PORT)/KS/304-313/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/314/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/315/2023 all dated 28.04.2023
3	C/75371/2023	
4	C/75372/2023	
5	C/75375/2023	
6	C/75376/2023	
7	C/75377/2023	
8	C/75378/2023	
9	C/75379/2023	
10	C/75380/2023	
11	C/75556/2023	
12	C/75559/2023	
13	C/75565/2023	

▪ **Rungta Sons Pvt. Ltd. v. Commissioner of Cus. (Port), Kolkata**

Sl. No.	Appeal No(s).	Impugned Order No. & Dt.
1	C/75374/2023	Order-in-Appeal No. KOL/CUS(PORT)/KS/304-313/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/314/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/315/2023 all dated 28.04.2023
2	C/75554/2023	Order-in-Appeal No.
3	C/75563/2023	KOL/CUS(PORT)/KS/365-367/2023, Order-in-Appeal No. 368-370/2023, Order-in-Appeal No. 371-375/2023 all dated 09.05.2023
4	C/75568/2023	

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C/75374,75554,75563,75568/2023-DB [Rungta Mines Ltd., Rungta Sons P. Ltd.]
C/75373,75555,75558,75560,75566,75569-75573/2023-DB [Bonai Ind. Co. Ltd.]
C/75557, 75561,75562,75567,75574/2023-DB [Feegrade & Co. P. Ltd.]

▪ **Bonai Industrial Co. Ltd. v. Commissioner of Cus.
(Port), Kolkata**

Sl. No.	Appeal No(s).	Impugned Order No. & Dt.
1	C/75373/2023	Order-in-Appeal No. KOL/CUS(PORT)/KS/304-313/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/314/2023, Order-in-Appeal No. KOL/CUS(PORT)/KS/315/2023 all dated 28.04.2023
2	C/75555/2023	Order-in-Appeal No.
3	C/75558/2023	KOL/CUS(PORT)/KS/426-434/2023 dated 02.06.2023
4	C/75560/2023	
5	C/75566/2023	
6	C/75569/2023	
7	C/75570/2023	
8	C/75571/2023	
9	C/75572/2023	
10	C/75573/2023	

▪ **Feegrade & Co. P. Ltd. v. Commissioner of Cus.
(Port), Kolkata**

Sl. No.	Appeal No(s).	Impugned Order No. & Dt.
1	C/75557/2023	Order-in-Appeal No.
2	C/75561/2023	KOL/CUS(PORT)/KS/365-367/2023, Order-in-Appeal No. 368-370/2023, Order-in-Appeal No. 371-375/2023 all dated 09.05.2023
3	C/75562/2023	
4	C/75567/2023	
5	C/75574/2023	

2. The facts of the case in brief are that the appellants are exporters of Iron Ore Fines of specified Fe content, in terms of contract with the foreign buyers. The price of the export goods is based on the percentage of Fe content, as specified in the contract.

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3. As per the terms of the contract, the declared unit value was only provisional and was subject to change on the basis of actual Fe content and other parameters as per analysis report at the Discharge Port and submission of documents as specified in the contract.

4. The Shipping Bills were assessed provisionally on the declared price and charging duty @30% Adv applicable for Iron Ore Fines with Fe content of more than 58% (CTSH 2601 11 43/2601 11 49) as per the Load Port Analysis Report by Mitra S.K Pvt. Ltd./SGS India Pvt. Ltd/ Inspectorate Griffith India Pvt. Ltd., as mentioned in the contract. All these test agencies are Govt. approved [N A B L Approved] Test Agencies.

5. On submission of the relevant documents, the jurisdictional Assessing Officer finalised the assessment on the basis of Fe content in Iron Ore Fines as per Discharge Port Test Report (DPTR) which was determined on Dry Metric Ton (DMT) basis.

6. The exporter appealed against the Finalisation order, inter alia, on the ground that the in the Load Port Test Report (LPTR), Discharge Port Test Report (DPTR) and Custom House Lab Report (CHLR), the Fe content has been determined on Dry Metric Ton (DMT) basis and not on 'As received' basis, i.e. not on Wet Metric Ton (WMT) basis, and therefore, is not in conformity with the law. They cited the decision of Hon'ble Supreme Court in the case of **Union of India Vs Gangadhar Narsingdas Aggarwal [1997(89)ELT19(S.C.)]** and **CBEC Circular No. 4/2012-Cus dated 17.12.2012** for adoption of uniform Customs procedure for calculating the contents of Iron Ore for Rate of duty. The orders

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clarified that **for the purpose of charging of export duty the assessment of Iron ore for determination of Fe contents shall be made on Wet Metric Ton (WMT) basis**, which in other words mean deducting the weight of impurities (inclusive of moisture) out of the total weight/Gross Weight to arrive at the Net Fe content.

7. The Commissioner of Customs (Appeals), Kolkata has upheld the Order of Finalisation of Assessment of concerned Shipping Bills by the Assistant Commissioner of Customs(Export), Custom House, Kolkata, on the following grounds :

- i) Since the Fe content was found to be more than 58% in all the Test Reports, namely, the goods were held to be classifiable under Chapter Heading 26011149 and liable for payment of export duty @ 30% adv.
- ii) For valuation purpose, the Transaction Value on PDMT price as per contract was accepted.
- iii) The judgement in the case of *Union of India Vrs Gangadhar Narsinghdas Agrawal [1997 (89) E.L.T. 19 (S.C.)]* and C.B.E.C. Circular No.04/2012-Cus dated 17.02.2012 according to which the percentage of Fe content in the Iron Ore had to be determined taking all the impurities including moisture into account (WMT) was held to be not relevant here as at present the duty is being charged on ad valorem basis and on the basis of Transaction Value agreed between the exporter and the overseas purchaser on basis of Dry Weight Percentage of Iron Ore Fines.

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8. Being aggrieved by the impugned Orders-in-Appeal, the appellants are before the Tribunal.

9. The Ld. Consultants appearing on behalf of the appellants, submit that the two main ingredients of assessment of duty are determination of classification of the goods which fixes the rate of duty, and determination of Transaction Value of the goods. Both exporter and Department agreed on the ascertained Transaction Value calculated as per the Contract and the classification remained to be determined.

10. The summary of submissions made by the Ld. Consultants are as under :

i) The issue involved which is common to all the above appeals is whether for deciding the classification, on which rate of duty depends, the Fe content of Iron Ore Fines are to be determined on Dry Metric Ton (DMT) basis or Wet Metric Ton (WMT) basis. The classification is required to be ascertained as the rate of duty is based on the same and the classification depends upon the percentage of Fe contained in the goods presented for export.

ii) The issue stands squarely covered by the following judicial decisions :

a) Hon'ble High Court of Bombay at Goa in their Order in *Writ Petition No. 216/2022 dated 23.09.2022 in the case of VM Salgaokar & others Vs Asst Commissioner of Customs (Export), Goa & others ;*

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- b) *Final Order No 76644-76645/2023 Dated 15.09.23 of CESTAT, Kolkata in case of Bagadiya Brothers Private Limited.*
- c) *Final Order No 77496/2023 Dated 30.10.2023 of CESTAT, Kolkata in case of Jindal Steel & Power Limited.*
- d) Besides the above, the issue also stands decided by the decisions of different Tribunal Benches.

iii) In view of the above, the matter is no more *res integra* and that for Shipping Bills filed prior to 01.05.2022, the assessments have to be finalised taking into consideration the Fe content (percentage) on Wet Metric Ton basis only. In the case all the above appeals, the Shipping Bills have been filed prior to 01.05.2022.

iv) Since there is no formula has prescribed in the Indian Standard (IS-1493/1953) for conversion of Iron Ore in a dried sample into its equivalent in the moist sample, this Hon'ble bench, in the above cited case laws, has been consistently directing to apply the following internationally accepted formula for converting Fe % on DMT basis to Fe percentage on WMT basis:

$B = A (100 - M) / 100$, Where

B = % of Fe content in samples on as received basis,

A = % of Fe as per the Lab report, i.e. on Dry basis,

M = % of Moisture content in the sample.

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v) The Assessing Officer for the impugned Shipping Bills have considered the Test Report at Load Port(LPTR), Discharge Port(DPTR) and Custom House Lab Report(CHLR)/CRCL) for determining the classification and rate of duty applicable. While doing so, he has referred to CBEC Circular No. 12/2014- Cus which relates to Valuation of export goods.

vi) But in all these reports, the Fe content have been determined on **Dry Metric Ton (DMT)** basis, which goes against the ratio laid down in the cited decisions.

vii) Further, the Report of Custom House Chemical Laboratory (CHCL/ CRCL) just mentions the percentage of Fe and Moisture and does not provide the details of other impurities, which is essential for converting the Fe percentage on DMT basis to Fe percentage on WMT basis in terms of Circular No.4/2012-Cus.

viii) He requested that the Order(s)-in-Appeal be set aside and the assessing officers be directed to finalise the assessments after determining the Fe content on WMT basis by deducting the moisture and other impurities given in Load Port Test Report by government approved and NABL accredited Testing Agencies, provided by the appellants in respect of each of the Shipping Bills, at the time of export, which have also been accepted by the Department for purpose of valuation while finalising the assessment and to convert the percentage of Fe on DMT basis to percentage of Fe on WMT basis by applying the universally recognised formula based on mathematics for determination of classification of Iron Ore fines exported.

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The formula is :-

$B = A (100 - M) / 100$, where -

B = % of Fe content in samples on as received basis,

A = % of Fe as per the Lab report, i.e. on Dry basis,

M = % of Moisture content including other impurities in the sample ;

ix) He further submits that the CRCL/CHL lab report does not consider the contents with reference to the impurities. Further, the CRCL reports have been issued much later than the date of export [Ranging between 35 to 180 days after the date of export]. On the other hand, the LPTR from reputed Dept. approved NABL laboratories, have been submitted by the appellant immediately after the export date. Thus the Moisture Content in WMT basis would be more accurate under the reports prepared by the NABL approved laboratories. Accordingly, he prays that the same should be taken for finalising the assessment.

11. The Ld. Authorized Representative of the Revenue fairly concedes that the issue stands covered by the aforesaid decisions of this Bench.

12. Heard both sides and perused the appeal records and other documentary evidence produced before us.

13. We find that the issue under dispute in these cases is whether for deciding the classification and rate of duty, the Fe percentage of Iron Ore Fines is to be determined on Dry Metric Ton (DMT) basis or Wet Metric Ton (WMT) basis.

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14. We agree with the learned Consultants for the appellants that the issue stands decided as early as 1997 by Hon'ble Supreme Court in the case of **Union of India Vs Gangadhar Narsingdas Aggarwal 1997 (89) ELT 19(S.C.)** and **subsequent CBEC Circular No. 4/2012-Cus. dated 17.02.2012** which was issued for adoption of uniform Customs procedure in all Customs Houses. In the said Circular, it was stipulated that for the purpose of charging of export duty the assessment of Iron ore, determination of Fe contents is required to be made on Wet Metric Ton (WMT) basis which in other words mean deducting the weight of all impurities (inclusive of moisture) out of the total weight/Gross Weight to arrive at Net Fe content.

15. Hon'ble Supreme Court in **Union of India v. Gangadhar Narsingdas Aggarwal [1997 (89) E.L.T. 19 (S.C.)]**, had upheld the judgment of the Hon'ble Bombay High Court in the case of **Union of India & Ors. v. Gangadhar Narsingdas Agrawal & Anr. [1988 (33) E.L.T. 673 (Bom.)]**. The Hon'ble Bombay High Court in its judgment had observed as under:

" 3. Before going into the contentions of Mr. Rege, learned Counsel for the appellants, it must be noticed that there is no dispute that the lumpy iron ore and iron ore fines exported by the petitioners was in a moist condition at the time when it was exported. Thus, what the petitioners exported was moist lumpy iron ore and moist iron ore fines.

4. It is also undisputed that the rate of customs duty has to be calculated on the basis of the goods being in such condition as they were in at the time of

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export. Thus, it is an undisputed position that the claim for partial exemption from customs duty made by the petitioners the present case has to be determined on the footing of the goods exported being moist iron ore fines and moist lumpy iron ores.

5. Now, the only submission urged by Mr. Rege, learned Counsel for the appellants was that it is not possible by a physical analysis to determine the iron ore contents in moist lumpy iron ore or moist iron ore fines, because such moist iron ore fines and moist lumpy iron ore has to be dried for finding out the iron contents. It was urged by him that this is the only method of analysis accepted by the Indian Standard Institute, and hence the result of that analysis must be made applicable directly or straightway to determine the percentage of iron contents in the iron ore exported by the petitioners. In our view, the submission has no merit whatever. Although it is true, as submitted by Mr. Rege, that moist lumpy iron ore and moist iron ore fines have to be dried for the purpose of determining the iron contents, there is a mathematical formula by which, on the basis of the results of these aforementioned analysis, the iron content in moist lumpy iron ore and moist iron ore fines can be easily determined. That formula has been in fact explained in a Letter dated 23rd June, 1978 addressed by Toman Trading Co. Ltd., a copy of which is at Exh. A to the petition. It appears that following this very method, Italab (Goa) Pvt. Ltd. have Issued certificates as to the iron content in the moist iron ore fines and moist lumpy iron ores exported by the petitioners, and these certificates show that the iron content in these iron ores was to the extent of about 57 percent. Merely because in respect of moist iron ore the iron content cannot be determined directly by physical analysis this cannot lead to the result that the iron ore

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content cannot be determined at all or that the petitioners should be deprived of their just claim on that footing which is totally unwarranted by law. The submission of Mr. Rege must, therefore, fail."

16. Circular No. 04/2012-Cus. dated 17.02.2012 was issued by the Central Board of Excise and Customs (as it was known then), wherein it was specifically provided that the net Fe content for the purpose of charging export duty is to be determined on Wet Metric Ton basis. The relevant paragraph of the Circular is reproduced for reference:

"3. In light of the observation by the Apex Court that export duty is chargeable according to Fe contents, and to maintain uniformity all over the custom houses, it is clarified that for the purpose of charging of export duty the assessment of Iron ore for determination of Fe contents shall be made on Wet Metric Ton (WMT) basis which in other words mean deducting the weight of impurities (inclusive of moisture) out of the total weight/Gross Weight to arrive at Net Fe contents."

17. This decision has been consistently followed in the following High Court/Tribunal decisions/orders:

- i. Sociedade de Fomento Industrial Pvt. Ltd. v. K.C. Lakiri & Anr. [1987 (30) E.L.T.686 (Goa High Court)]*
- ii. Mineral Enterprises Ltd. v. CC, Mangalore [2010(253) ELT 241 (Tri. - Bang.)]*
- iii. General Nice Mineral Resources (I) P. Ltd. Versus C.C. Vijayawada [2017 (352) E.L.T. 94 (Tri. - Hyd.)]*
- iv. Oblapuram Mining Company Pvt. Ltd. Vs CC Visakhapatnam [2017-TIOL-1169 (CESTAT-Hyd.)]*

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v. *Hon'ble High Court of Bombay at Goa in their Order in Writ Petition No. 216/2022 dated 23.09.2022 in the case of VM Salgaokar & others Vs Asst Commissioner of Customs(Export), Goa & others ;*

18. This Bench vide **Final Order No 76644-76645/2023 dated 15.09.2023** of in the case of **Bagadiya Brothers Private Limited v. Commissioner of Customs (Port), Kolkata [Customs Appeal No. 75008 of 2021 & anr.-KOL]** has relied on all the cited case laws [(i) to (iv) above] and held as under :

"9.7 Meanwhile, with effect from 1.5.2022, by a Supplementary Note to Chapter 26, inserted in Indian Customs Tariff, it has been stipulated that in relation to the products under the heading 2601 the percentage of Fe (Iron) content wherever specified shall be calculated on dry metric ton basis.

9.8 It means that, only after 1.5.2022 for determination of Tariff heading the Fe content shall be calculated on DMT basis. And prior to 1.5.2022, the calculation of Fe content shall be on WMT basis."

19. Similar decision was rendered by this Bench vide **Final Order No 77496/2023 Dated 30.10.2023 in the case of Commissioner of Customs (Prev.), Bhubaneswar v. Jindal Steel & Power Limited [Customs Appeal No. 75769 of 2023-KOL].**

20. The method of determining Fe content on WMT basis is discussed by Hon'ble High Court of Bombay in Para 47 of its judgement dated 23.09.2022 in WP No. 216/2022 in the case of **V M Salgaokar Brothers &**

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others Vs Asst Commissioner of Customs(Export), Goa & others. The Hon'ble Court mentions that it is universally recognised and followed for determination of Iron content in natural iron fines. The Hon'ble High Court of Bombay at Goa in their aforesaid judgement has very elaborately dealt with this issue. The relevant portions at Paragraph 14 are as under :-

"14. The petitioners have contended that the determination of Fe(iron) content on WMT basis was considered to be an acceptable norm in the prior assessments, which was clear from the fact that by virtue of the Finance Act 2022, for first time an amendment to the First Schedule to the Tariff Act, has been incorporated by adding a supplementary note in Chapter 26 to the effect that for the products of CTH 2601, the percentage of Fe (iron) content wherever specified, shall be calculated on the 'Dry Metric Ton' (DMT) basis to be effective from 01.05.2022. Hence, according to the petitioners there could not have been any adoption of the DMT method in respect of any assessment for the period prior to 1st May 2022.

In the light of the above discussion, Court ordered the petition is partly allowed in terms of the following directions :

"I. Insofar as the assessments in relation to the period prior to 1st May 2022 are concerned, they shall be governed by the principles of law in regard to the classification as laid down by the Supreme Court in Union of India vs. Gangadhar Narsingdas Aggarwal (supra), as clarified by the communication dated 17 February 2012, of the Tariff unit of the Ministry of Finance Department of Revenue (CBEC) Customs-IV Division.

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II. xxxxxxxxxxxxxx

III. In view of our above conclusion, we set aside the impugned orders-in-original dated 17 March 2022 and 13 March 2022 passed by the Assistant Commissioner of Customs.

IV. We order a remand of the matter in both the cases to the Assistant Commissioner of Customs, who shall hear the petitioners and pass a fresh order in accordance with law, in the light of the principles of laws as discussed by us in this judgement. Such exercise shall be undertaken within a period of three months from today.

21. Coming to the issue raised by the appellants about the moisture content Test Reports submitted by various agencies at different points of time, the details of such reports generated, shipping bills-wise is reproduced below :

DETAILS OF APPEALS (HALDIA) FILED AT CESTAT, KOLKATA									
SI No	O-I-A NO	SB NUMBER	DATE	LEO Date	Moisture Analysis at Various Points				DAYS
					Report as per NABL approved Pvt Agency	Date	CRCL Moist	CRCL Date	
							(B)	(A-B)	
1	Kol/Cus/DC/502/Export/20 dt.10-9-20 & Final refund order Kol/Cus/Ac/1813/Export/21 dt. 20-4-21	4695390	06-06-2019	07-06-2019	7.69	01-07-2019	5.30	26-08-2019	-81
2	Kol/Cus/Ac/112/Export/20 dt. 20-2-20, Final refund order. Kol/Cus/DC/690/Export/20 dt. 5-11-20	3339558	08-04-2019	09-04-2019	7.12	29-04-2019	4.50	27-08-2019	-141
3	Kol/Cus/Ac/2839/Export/21 dt.22-11-21	8045186	05-11-2019	06-11-2019	9.16	26-11-2019	3.10	16-12-2019	-41
4	KOL/CUS/AC/2676/EXP/21 dt. 28.09.2021	3465508	27-06-2020	28-06-2020	9.34	18-07-2020	2.60	24-08-2020	-56

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5	Kol/Cus/Ac/2707/Export/21 dt.05-10-21	3488604	29-06-2020	30-06-2020	9.42	16-07-2020	4.10	25-08-2020	-54
6	Kol/Cus/Ac/2750/Export/21 dt.01-11-21	3738693	10-07-2020	11-07-2020	9.22	27-07-2020	2.80	22-08-2020	-43
7		3564736	02-07-2020	03-07-2020	9.22	27-07-2020	1.80	24-08-2020	-53
8	KOL/CUS/AC/26/EXPORT/22 dt.17-01-22	4790701	28-08-2020	29-08-2020	9.63	30-09-2020	1.70	19-10-2020	-52
9	Kol/Cus/Ac/29/Export/22 dt.17-1-22	6591359	16-11-2020	18-11-2020	8.99	03-12-2020	2.40	15-01-2021	-59
10	Kol/Cus/Ac/475/Export/21 dt.02-02-21 & Final OIO Kol/Cus/Ac/1861/Export/21 dt.11-06-21	7980964	01-11-2019	02-11-2019	8.31	22-11-2019	5.80	22-11-2019	-21
11	Kol/Cus/Ac/475/Export/21 dt.02-02-21 & Final OIO Kol/Cus/Ac/1861/Export/21 dt.11-06-21	9684325	16-01-2020	18-01-2019	8.11	28-01-2020	3.80	29-01-2020	-13
12	Kol/Cus/Ac/2422/Export/21 dt.13-08-21	8695667	03-12-2019	04-12-2019	8.35	17-12-2019	5.70	31-01-2020	-59
13	Kol/Cus/Ac/470/Export/21 dt.02-02-21 & Final refund order. Kol/Cus/Ac/1870/Export/21 dt. 22-6-21	8960188	14-12-2019	19-12-2019	8.25	27-12-2019	6.00	31-01-2020	-46
14	Kol/Cus/Ac/1827/Export/21 dt. 30-4-21	9820679	22-01-2020	24-01-2020	8.65	05-02-2020	3.50	17-02-2020	-26
15	KOL/CUS/AC/2678/EXP/21 dt.29-09-21	7738704	07-01-2021	08-01-2021	8.28	22-01-2021	2.00	08-02-2021	-32
1	Kol/Cus/Ac/40/Export/22 dt.18-1-22	6529424	12-11-2020	13-11-2020	9.11	07-12-2020	2.80	15-01-2021	-64
2	Kol/Cus/Ac/46/Export/22 dt.21-01-22	5378849	23-09-2020	24-09-2020	9.45	17-10-2020	2.60	27-11-2020	-65
3	Kol/Cus/Ac/47/Export/22 dt.21-01-22	4036556	24-07-2020	27-07-2020	9.18	06-08-2020	3.90	25-08-2020	-32
4	Kol/Cus/Ac/38/Export/22 dt.18-1-22	6591350	17-11-2020	18-11-2020	8.99	03-12-2020	2.70	15-01-2021	-59
5	Kol/Cus/Ac/41/Export/22 dt.18-1-22	6330898	04-11-2020	05-11-2020	8.95	25-11-2020	2.60	27-11-2020	-23
1	Kol/Cus/Ac/1823/Export/21 dt. 28-04-21	9820789	22-01-2020	24-01-2020	8.65	05-02-2020	3.60	24-02-2020	-33
2	Kol/Cus/Ac/09/Export/22 dt.12-01-22	3565659	02-07-2020	03-07-2020	9.22	27-07-2020	3.60	25-08-2020	-54
3	Kol/Cus/Ac/16/Export/22 dt.12-01-22	4036442	24-07-2020	27-07-2020	9.18	06-08-2020	4.10	25-08-2020	-32
4	Kol/Cus/Ac/17/Export/22 dt.12-01-22	4799687	29-08-2020	30-08-2020	9.63	30-09-2020	1.90		0
5	Kol/Cus/Ac/36/Export/22 dt.18-1-22	6529391	12-11-2020	13-11-2020	9.11	07-12-2020	1.70	15-01-2021	-64
6	Kol/Cus/Ac/42/Export/22 dt.18-1-22	6591349	17-11-2020	18-11-2020	8.99	03-12-2020	2.20	15-01-2021	-59

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C/75374,75554,75563,75568/2023-DB [Rungta Mines Ltd., Rungta Sons P. Ltd.]
C/75373,75555,75558,75560,75566,75569-75573/2023-DB [Bonai Ind. Co. Ltd.]
C/75557, 75561,75562,75567,75574/2023-DB [Feegrade & Co. P. Ltd.]

7	Kol/Cus/Ac/37/Export/22 dt.18-1-22	6330869	04- 11- 2020	05- 11- 2020	8.95	25- 11- 2020	2.60		0
8	Kol/Cus/Ac/28/Export/22 dt.17-01-22	5378196	23- 09- 2020	24- 09- 2020	9.45	17- 10- 2020	2.70	27- 11- 2020	-65
9	Kol/Cus/Ac/18/Export/22 dt.12-01-22	4329713	07- 08- 2020	08- 08- 2020	9.26	04- 09- 2020	1.40	19- 10- 2020	-73
10	Kol/Cus/Ac/39/Export/22 dt.18-1-22	7738761	07- 01- 2021	08- 01- 2021	8.28	22- 01- 2021	2.10	08- 02- 2021	-32
1	Kol/Cus/Ac/19/Export/22 dt.12-01-22	7739601	07- 01- 2021	08- 01- 2021	8.28	22- 01- 2021	2.00	08- 02- 2021	-32
2	Kol/Cus/Dc/760/Export/20 dt. 22-12-20 & final ref order Kol/Cus/Ac/1850/Export/21 dt. 04-06-21	7980960	01- 11- 2019	02- 11- 2019	8.31	22- 11- 2019	4.90	22- 11- 2019	-21
3	Kol/Cus/Ac/08/Export/22 dt.10-01-22	5539255	30- 09- 2020	01- 10- 2020	9.23	03- 11- 2020	2.60	27- 11- 2020	-58
4	Kol/Cus/Ac/27/Export/22 dt.17-01-22	6489347	11- 11- 2020	12- 11- 2020	8.89	30- 11- 2020	2.40	15- 01- 2021	-65

22. It is observed that while the Moisture content is tested by the Pvt Labs approved by the NABL within a short period from the date of export, the testing conducted by CRCL is delayed on an average by more than 40 days and sometimes going upto 60 to 80 days also. Therefore, we see considerable force in the submission of the appellant that the moisture content under WMT would be more accurate in the report given by the NABL approved agencies, rather than in the report given at a much later dated by the CRCL. In fact, in the cited decisions of this Bench, the assessing authorities have been directed to follow the moisture content given in the report of the NABL accredited agencies.

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C/75557, 75561,75562,75567,75574/2023-DB [Feegrade & Co. P. Ltd.]

23. In the light of the above discussions, we pass the following order:

- (i) The matter is remitted to the assessing authorities who are directed to determine Fe content of subject Iron Ore Fines shipments on WMT basis by deducting the moisture inclusive of other impurities given in the Load Port Test Report (LPTR) of NABL accredited and government approved Private Laboratory/Testing Agency by converting the percentage of Fe content on DMT basis to percentage of Fe content on WMT basis applying the following formula for determination of classification of IOF exported, viz.:

$$\text{Iron content} = \text{Fe} \times (100-M)/100$$

(on as received basis)

Where Fe is percentage of iron content on dry basis, M is moisture content including other impurities in the sample

and to finalise the assessments accordingly.

- (ii) The impugned orders are set aside and the appeals are allowed by way of remand as per direction given at Paragraph 23 (i) above.

(Operative part of the order was pronounced in open court)

Sd/-

(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)