CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL AHMEDABAD
REGIONAL BENCH, COURT NO. 1

EXCISE APPEAL NO. 13139 OF 2018
EXCISE APPEAL NO. 10082, 10092-10094, 10174, 10179, 10189, 10194, 10198, 10212, 10251, 10490-10492, 10494 & 10498 OF 2019

HARIYANA SHIP DEMOLITION PVT LTD & Ors. — **Appellant**

Vs.

Commissioner of Central Excise and Service Tax-DAMAN — **Respondent**

Appearance:
Present for the Appellant : Shri Sarju Mehta, Chartered Accountant (For Sr. Nos.8, 13-17), Shri Rahul Gajera, Advocate (For Sr. Nos. 9 & 11)
Present for the Respondent: Smt. Sunita Menon, Superintendent (AR)

CORAM:
HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER (TECHNICAL)

Date of Hearing : **13/03/2026**

ORDER

1. In this bunch of matters, Advocate Shri Rahul Gajera is representing the cases bearing Sr. Nos. 9 and 11, whereas Shri Sarju Mehta, learned Counsel, is appearing in the cases bearing Sr. Nos. 8 and 13–17. None appears on behalf of Shri Arvind Sharma in respect of the cases bearing Sr. Nos. 6 and 7. The remaining matters are also not represented by any counsel.

2. Shri Rahul Gajera, learned Advocate, submits that all these ship-breaking units as well as brokers are co-noticees in the main case against M/s. Essar Ferro Alloys Company involving inadmissible of Cenvat credit allegedly availed by the said unit. The charge against his clients is that they had issued Central Excise invoices for passing on Cenvat credit without actual supply of raw materials. Learned Counsel Shri Sarju Mehta makes similar submissions in respect of his clients as mentioned above.

3. Both the learned Counsels submit that in the main appeal against M/s. Essar Ferro Alloys Company, the appeal has been allowed by setting aside the appellate order and therefore no case survives against the co-noticees. In support of their submissions, they refer to the decision of CESTAT, Allahabad in the case of Mr. Vinod Kumar Mishra and Mr. Dharmendra Kumar Gupta vs. Commissioner of Central Excise & CGST, Noida reported at 2025 (12) TMI 450 (para 4.3), dealing with a similar issue. They also rely upon the decision of

this Tribunal in the case of Thirumalai Cargo Services Pvt. Ltd. vs. Commissioner of Customs, Mundra vide Final Order No. A/10512/2023 dated 16.03.2023. Their submissions are taken on record.

4. Learned AR reiterates the findings of the learned Commissioner (Appeals), wherein it is discussed in para 7(1) and 7(2) that the appellants, being ship breakers/agents, have clearly admitted to issuing cenvatable invoices without supplying the actual material to the recipient. She submits that the actions of the appellants are in violation of the provisions of the Cenvat Credit Rules, 2004 and the Central Excise Act, 1944, for which penalty has been justifiably imposed by the Commissioner (Appeals).

5. While perusing the decision of this Tribunal in the case of Essar Ferro Alloys, it is observed that the said decision further relies upon the judgment in the case of CCE & ST, Silvassa vs. Vishal Casteels reported at 2024 (1) TMI 881 – CESTAT Ahmedabad. Both the learned Counsels draw attention to para 4.1 of the said decision, which reads as under:

> *"4.1 We have examined all the contentions of the department and find that during the cross-examination before the adjudicating authority all brokers stated that the disputed ship breaking material was supplied and transported to the respondent. Further, the ship breaking units/dealers nowhere admitted or stated that they had not supplied the goods to the respondent. We find that the allegation of the department is based upon assumption and presumption that the ship breaking scrap after clearance from the ship-breaking yard has been diverted to re-rolling units. In the present matter, not a single re-rolling mill unit, which allegedly used the said ship breaking scrap, has been identified by the department. No corroborative evidence has been produced by the department to show diversion of the said ship breaking scrap. Further, no corroborative evidence has been produced by the department in relation to use of alternate raw materials when the disputed goods are allegedly not received by the respondent. It is also not explained how the respondent procured alternate goods which were used in the manufacture of dutiable goods cleared on payment of duty."*

6. On being questioned about the factual position in respect of the present appellants, both the learned Counsels seek some time to go through the statements of the respective ship breakers/brokers and to make further submissions. For this purpose, both the Counsels are granted eight weeks' time. Learned AR may also try to locate the copies of the statements of the respective appellants and assist the Counsels.

7. The matters are accordingly adjourned to April 24,2026.

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Bharvi