



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Custom Appeal No. 7/2024

The Commissioner of Customs (Appeal), Jaipur 1 NCR Building
Statue Circle, C-Scheme Jaipur-302005.

----Appellant

Versus

Ceramic Tableware Pvt. Ltd., S-707-A, Road No. 6, V.K.I. Area,
Jaipur-302013.

----Respondent

For Appellant(s) : Mr. Chandra Shekhar Sinha.

For Respondent(s) :

HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA

HON'BLE MRS. JUSTICE SANGEETA SHARMA

Order

03/02/2026

REPORTABLE

1. The challenge is to the judgment and order passed by the learned Customs, Excise & Service Tax Appellate Tribunal (CESTAT), New Delhi dated 29.02.2024 by the department, who are aggrieved of the allowing of the amendment of documents by the learned CESTAT to the respondent.

2. Brief facts which need to be noticed are that the department had conducted a search in relation to the goods imported by the respondent-company, which is engaged in the manufacture of Tableware, Crockery, etc. One of the raw material Calcium Phosphate, which the respondent were importing, were shown in the Bill of Entries classified under Chapter 25. The same were cleared by the Customs Authority. The department thereafter conducted the search operation on 26.11.2020 and it was noticed that the company had accepted that there was mis-declaration of HSN Code due to clerical error and agreed to pay the differential





amount of duty. The learned CESTAT has noticed that the said amount was deposited by applying the correct Code. The respondent had moved appropriate application under Section 149 of the Customs Act, 1962 (the Act) seeking amendment of the relevant Bill of Entries, which was rejected by the adjudicating authority on the ground that if the mis-declaration had been revealed suo moto, then alone the provisions of Section 149 of the Act would apply and not after the search had been conducted.

3. The learned CESTAT after considering the provisions of Section 149 of the Act and amendment of Bill of Entry 7.1 of the manual held that the respondent would be entitled to seek amendment of Bill of Entry and the rejection of their application was not proper. In ***Sony India P. Ltd. Vs Union of India 2021 SCC OnLine TS 982***, the Telengana High Court decided and reported in ***2023 SCC OnLine SC 1546***, the High Court observed that held as under:-

“36. Therefore, the stand of the respondents in the counter-affidavit that only reassessment under Section 128 is the remedy available to the petitioner, and Section 149 cannot be invoked, is not tenable. We also reject the plea of the second respondent that there is no possibility of getting modified an order of assessment under any other relevant provision and that the petitioner is trying to overcome limitations stipulated in Section 128.

37. The only condition required to be fulfilled for seeking amendment of documents such as a BoE under Section 149 is that such amendment should be sought on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be.”

4. In another case of ***Mohit Overseas Vs. Commissioner of Customs – 2016 (335) ELT 18 (Delhi)***, the Delhi High Court





found that if the Bill of Entry has already been passed, even then power exists under Section 149 of the Act to the concerned person to make appropriate amendment of Bill of Entry.

5. We find that the view taken by the CESTAT is in consonance with the provisions of the Act, it is apparent that if the Bills of Entries are based on a different Code, other than, what was required and clearance has also been given by the Customs Authority, then too corrections can be made. There is no embargo under Section 149 of the Act for not allowing the amendments merely because a search has been conducted.

6. In our opinion, whether suo moto or on the basis of advice of the department may be through search or otherwise the amendments can always be made in the Bill of Entries and the purpose behind the provisions of Section 149 of the Act is to make proper assessment and the discretion which is left to the proper Officer to authorize any document to be amended has to be reasonable and for allowing smooth business to run.

7. The situation would have been otherwise that even after the advice from the department, the concerned importer asserts of his earlier Bill of Entry, the customs preventive department can of course, thereafter take action.

8. We, therefore, confirm the order passed by the learned CESTAT and find that no question of law of importance is made out in this appeal.

9. The present Custom Appeal is accordingly dismissed.

10. All pending application(s), if any, stands disposed of.

(SANGEETA SHARMA),J (SANJEEV PRAKASH SHARMA),ACTING CJ
Kavish /5

