

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL, CHENNAI**

Customs Appeal No. 40161 of 2016

(Arising out of Order in Appeal C. Cus. II No. 800/2015 dated 30.08.2015 passed by the Commissioner of Customs (Appeals – II), Chennai)

Jindal Aluminium Ltd.

Jindal Nagar, Tumkur Road
Bangalore – 560 073.

Appellant

Vs.

Commissioner of Customs

Chennai II Commissionerate
Customs House
60, Rajaji Salai, Chennai – 600 001.

Respondent

APPEARANCE:

Shri B. Aditya Sundar, Chartered Accountant for the Appellant
Shri Vineeth Goel, Authorised Representative for the Respondent

CORAM

Hon'ble Shri M. Ajit Kumar, Member (Technical)

Hon'ble Shri Ajayan T.V., Member (Judicial)

FINAL ORDER NO. 40413/2026

Date of Hearing: 07.11.2025

Date of Decision: 24.03.2026

Per M. Ajit Kumar,

This appeal is directed against Order-in-Appeal C. Cus. II No. 800/2015 dated 30.08.2015 passed by the Commissioner of Customs (Appeals–II), Chennai.

The appellant filed three bills of entry for clearance of imported 'Aluminium Scrap Tread' from M/s. Esun International Pvt. Ltd., Singapore, classified under CTH 7602 00 10, and claimed exemption from Basic Customs Duty under Notification No. 046/2011-Cus dated 01.06.2011 (Sl. No. 992(I)) based on the Country of Origin

under the ASEAN–India Free Trade Agreement. The Department ordered first check examination to verify the country of origin. Upon examination, the dock officers reported that while the FTA certificate issued by Singapore and other documents were verified, the goods did not bear any marks or numbers indicating the Country of Origin (**COO**). On this ground, the adjudicating authority denied the benefit of the notification and reassessed the bills of entry at the merit rate of duty. The goods were cleared on payment of duty under protest. The appellant’s appeal before the Commissioner (Appeals) was rejected by the impugned order, leading to the present appeal.

3. The learned Chartered Accountant Shri B. Aditya Sundar appeared for the appellant and Shri Vineeth Goel, Ld. Authorized Representative appeared for the respondent.

3.1 Shri B. Aditya Sundar the Ld. C.A. submitted on behalf of the appellant that:

A. The lower authorities failed to appreciate that the imported item, Aluminium Scrap, is not a newly manufactured product. Therefore, markings such as “Made in Singapore” or the manufacturer’s name/brand are neither customary nor practically possible on scrap goods.

B. As per Serial No. 5 of the Overleaf Notes to the Combined Declaration-cum-Certificate of Origin (Annexure L) issued under the Rules of Origin of the ASEAN–India Free Trade Agreement, the requirement of physical marking is not mandatory in such cases.

C. Further, Annexure III (Rule 13) read with paragraph 7(c) of the ‘Issuance of AIFTA Certificate of Origin’ under Customs Notification

No. 189/2009-Customs (N.T.) dated 31.12.2009 (Annexure N) provides that where an AIFTA Certificate of Origin is not accepted, the Customs Authority must mark the reason in Box 4 and return the original certificate to the issuing authority within a reasonable period, not exceeding two months, while clearly communicating the grounds for denial of preferential treatment.

D. Since the department has not taken action as above and for the other reasons stated the benefit of exemption cannot be denied to them.

He hence prayed that the impugned order may be set aside and relief granted.

3.2 Shri Vineeth Goel, Ld. A.R. appeared for the respondent reiterated the findings in the OIO and submitted that:

A. The three Bills of Entry were filed for clearance of Aluminium Scrap Tread. On examination, the goods were found to have no markings indicating the country of origin, manufacturer, or brand, which is not disputed by the appellant. In the absence of such details, the lower Adjudicating Authority held that the goods could not be established as originating from Singapore.

B. As per Sl. No. 5 of the Overleaf Notes (OCP/COO Appendix D) under the ASEAN-India Free Trade Area Rules of Origin, the description of goods must be sufficiently detailed to enable identification by Customs, including the name of the manufacturer and trademark. Since the impugned goods lacked these particulars, the requirement was not met.

C. Mere submission of a Certificate of Origin is insufficient, as all conditions under the Rules of Origin must be complied with. Accordingly, denial of the notification benefit is justified, as the description requirement is essential to correlate the goods with the Certificate of Origin.

He prayed that the appeal may be rejected.

4. We have heard the parties and perused the appeals. We find that the dispute relates to an alleged procedural defect, relating to non-identification of imported goods in the absence of the country of origin not being mentioned on the goods. The docks officers after examination of the impugned goods reported as follows:

“Sattva – CFS opened and examined the cargo from the container. Contents: Aluminium Scrap Tread. Verified PSI Certificate No. Olivine Scrap 2014-0091 dated 23.6.2014 issued by Olivine Commercial Pvt. Ltd. Singapore Vfd. PCB Registration Sales contract Form – 09. The COO is not available on the goods. However, verified FTA certificate issued by Singapore. Verified weight w.r.t weighment slips issued by CFS. First Check B/E returned to group please”.

Thus the officer:

(i) Verified PSI Certificate No. Olivine Scrap 2014-0091 dated 23.6.2014 issued by Olivine Commercial Pvt. Ltd. Singapore. No discrepancy was noted.

(ii) Verified PCB Registration Sales contract Form – 09. No discrepancy was noted.

(iii) Verified the goods and found that the COO was not available on the goods.

(iv) Verified FTA certificate issued by Singapore. No discrepancy was noted.

(v) Verified weight w.r.t weighment slips issued by CFS. No discrepancy was noted.

5. We now examine the issue in the light of Sl. No. 5 of the overleaf notes (OCP/COO Appendix D) under Rules of Origin for the ASEAN-

INDIA Free Trade Area – 2009, cited by the parties and is extracted below-

"DESCRIPTION OF GOODS: The description of goods must be sufficiently detailed to enable the goods to be identified by the Customs Officers examining them. Name of manufacturer, any trade mark shall also be specified.

6. The Bill of Entry No. 6072913 dated 09.07.2014, examined as a representative case, describes the goods as "ALUMINUM EXTRUSION SCRAP 6063 AS PER ISRI TREAD," while the Certificate of Origin describes them as "1X40' HQ Container, 25.782 MT, ALUMINUM EXTRUSION SCRAP 6063 TREAD", and certifies the exporter's declaration 'on the basis of control carried out'. As per the guidelines of the Institute of Scrap Recycling Industries, Inc., "TREAD" denotes clean, uncoated aluminum castings, forgings, and extrusions of a single specified alloy, free from contaminants. This description was hence sufficiently detailed to enable identification of the goods by Customs officers. In these circumstances, the absence of country-of-origin markings on the goods could not have impeded their identification, particularly when all accompanying documents were verified by the Customs Officer and no discrepancies were found. There was also no evidence of tampering with the container or any other blameworthy act reported to have been done by the importer.

7. Hence, we find that the imported goods have satisfied the requirements of law and merit to be granted the benefit of exemption from Basic Customs Duty under Notification No. 046/2011-Cus dated 01.06.2011. Even otherwise procedure is merely a means to enforce the law, not an end in itself. Treating every procedural lapse alike ignores the purpose of the requirement. The doctrine of substantial

compliance prevents undue hardship where obligations are essentially met and any deficiency is only minor and non-essential.

8. Accordingly, we set aside the impugned order and allow the impugned goods the benefit of exemption from Basic Customs Duty under Notification No. 046/2011-Cus dated 01.06.2011. The appellant is eligible for consequential relief as per law. The appeal is disposed of accordingly.

(Order pronounced in open court on 24.03.2026)

Sd/-
(AJAYAN T.V.)
Member (Judicial)

Sd/-
(M. AJIT KUMAR)
Member (Technical)

Rex