

Niti

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.160 OF 2022

PANDURONGA TIMBLO
INDUSTRIAS (REP. THR.
AUTH. SIGN. SURESH B
PRABHU DESSAI)

... PETITIONER

Versus

ASSISTANT
COMMISSIONER OF
CUSTOMS (EXPORT)

... RESPONDENT

Mr. Rajiva Srivastava with Mr. Vasudev Madkaikar,
Advocates for the Petitioner.

Ms. Asha Desai, Senior Standing Counsel with Ms. S.
Pereira, Junior Standing Counsel *for the Respondent.*

CORAM : M. S. SONAK &
BHARAT P. DESHPANDE, JJ.

DATE : 19th OCTOBER 2022

P.C. :

1. Heard Mr. Rajiva Srivastava with Mr. Vasudev Madkaikar for the petitioner and Ms. Asha Desai, Senior Standing Counsel with Ms. S. Pereira, Junior Standing Counsel for the respondent.

2. Rule. The rule is made returnable forthwith with the request of and with the consent of the learned Counsel for the parties.

3. Learned Counsel for the parties submit that the issue raised in this petition stands covered by the decision of the Division Bench of this Court in ***V.M. Salgaocar and Brother Pvt. Ltd. & Anr. V/s. The Assistant Commissioner of Customs (Export) & Ors.***¹ where one of us (Bharat P. Deshpande, J.) is also a party to the said decision. Accordingly, they submit that this petition can be disposed of by issuing similar directions.

4. Accordingly, we allow this petition partly 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 V/s. Gangadhar Narsingdas Agarwal & Ors.**², as clarified by the communication dated 17 February 2012, of the Tariff unit of Ministry of Finance Department of Revenue (CBEC) Customs – IV Division.*

(ii) In view of our above conclusion, we set aside the impugned order no.11/2022-AC(Export) dated 31.01.2022, passed by the Assistant Commissioner (Export), Marmagao, Goa.

(iii) We remand the matter to the Assistant Commissioner of Customs (Export), who shall hear the petitioner and shall pass fresh orders in accordance

1 Writ Petition No.216/2022

decided on 23.09.2022

2 1986 SCC OnLine Bom 506

with law in the light of principles discussed in the judgement and order disposing of Writ Petition No.216/2022. Such exercise shall be undertaken within a period of three months from today.

5. The rule is disposed of in the above terms.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.

NITI K

HALDANKAR

Digitally signed by NITI K
HALDANKAR
Date: 2022.10.20 10:09:00 +05'30'