

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

**Customs Appeal No. 41230/2013**

(Arising out of Order in Original No. 23/MP/2012-13 dated 18.02.2013 passed by the Commissioner of Central Excise, Customs & Service Tax, Surat – I)

**Habasit Iakoka Pvt. Ltd.**

S.F. No. 604/1, Goldwin  
Civil Aerodrome Post, Coimbatore – 641 014.

**Appellant**

Vs.

**Commissioner of Customs**

Chennai Export Commissionerate  
Custom House, 60, Rajaji Salai  
Chennai – 600 001.

**Respondent**

And

**Customs Appeal No. 41231/2013**

(Arising out of Order in Appeal No. 433/2015 (CXA – II) dated 23.12.2015/2015 passed by the Commissioner of Central Excise (Appeals – II), Chennai)

**G. Tech Stone Ltd.**

LVR Centre  
7, Seshadri Road, Alwarpet  
Chennai – 600 018.

**Appellant**

Vs.

**Commissioner of Customs**

Chennai Export Commissionerate  
Custom House, 60, Rajaji Salai  
Chennai – 600 001.

**Respondent**

**APPEARANCE:**

Shri S. Murugappan, Advocate for the Appellants  
Smt. Anandalakshmi Ganeshram, Auth. Representative for the Respondent

**CORAM**

**Hon'ble Shri M. Ajit Kumar, Member (Technical)**  
**Hon'ble Shri Ajayan T.V., Member (Judicial)**

INTERIM ORDER NOS. 40003-40004/2025

Date of Hearing: 31.07.2025  
Date of Decision: 23.09.2025

**Per M. Ajit Kumar,**

These appeals arise out of Order-in-Original (**OIO**) No. 23/MP/2012-13 dated 18.02.2013 passed by the Commissioner of Central Excise, Customs & Service Tax, Surat – I (impugned order).

2. Brief facts of the case are that on specific information officers of DRI, Surat investigated the exports made M/s. Ayush Exports, Astha Exim, Surat and others who had exported dyed / printed fabrics made from 100% polyester filament yarn, metal fitted rubber / moulded door bindings, ladies' night wear textile items etc. to UAE, Mauritius and other countries at allegedly over valued price so as to avail of excess DEPB licence benefit, rebate of duty and other export incentive fraudulently. On completion of investigation, Show Cause Notice (**SCN**), was issued to various persons including the appellants to deny the benefit of DEPB license to the transferees of the DEPB licenses, recovery of customs duty etc. along with the penalty on various persons who had abetted in the alleged acts of fraud and duty evasion. After due process of law, the Ld. Commissioner confirmed the proposals in the SCN. He held that the appellant M/s. G-Tech Stone Ltd. is liable to pay customs duty amounting to Rs.8,29,508/-; Rs.9,55,833/- and Rs.9,58,764/- forgone on goods imported and cleared by utilizing three DEPB scrips in terms of Notification No. 45/2002-Cus dated 22.4.2022 as amended. Insofar as the appellant M/s. Habasit Lakoka Pvt. Ltd. the Ld. Commissioner held that they are liable to pay customs duty amounting to Rs.9,33,451/- against one license. Penalty equal to duty under sec. 114A of the Customs Act, 1962 was also imposed on the appellants. Hence these appeals.

3. The Ld. Advocate Shri S. Murugappan appeared for the appellant and Ld. Authorized Representative Smt. Anandalakshmi Ganeshram appeared for the respondent.

3.1 The Ld. A.R. Smt. Anandalakshmi Ganeshram has raised a preliminary objection relating to the jurisdiction of this Tribunal to hear this matter. She submitted that all appellants should file an appeal

before the same Tribunal and that the Tribunal to which an appeal should be preferred would be the Tribunal having jurisdiction over the territory in which the office of the Adjudicating Authority was situated as the immediate cause of action emanated from the OIO. The mere fact that export/import had partly arisen within the territory of this Tribunal would not confer jurisdiction on it where the situs of the appellate authority who had passed the impugned order lies outside the territory. This would also ensure that an appeal against the Tribunal's order would lie before a single jurisdictional High Court over which it has exclusive superintendence and control. It would further not allow different appellants against a same OIO to take advantage of the conflict in law laid down in the judgments by different Tribunals/High Courts, if any. The Ld. A.R. prayed that since the appeals has been filed before the wrong Bench of the Tribunal, the same may be rejected for lack of jurisdiction.

3.2 The Ld. Advocate Shri S. Murugappan who appeared for the appellants requested for time to file his written submissions on the point of law.

3.3 Both parties were permitted to submit their written submissions, if any, on the issue of jurisdiction. Revenue has filed its written submissions by letter dated Nil and received on 31.07.2025. The Ld. Counsel on behalf of the appellant has submitted his written response vide letter dated 08.09.2025 received on the same date.

4. We have heard the rival parties and have carefully considered their written and oral submissions. We find that revenue has raised a preliminary objection on the issue of jurisdiction, which can be raised at any stage of the proceedings. Jurisdiction refers to the authority or power of a Court or an Authority to hear and decide a particular case

or type of dispute. It may be classified into several categories, the important ones of which are (i) territorial jurisdiction (ii) pecuniary jurisdiction and (iii) jurisdiction over the subject matter. Territorial jurisdiction can be conferred by a statute both by way of the '*situs doctrine*' and/or the '*cause of action doctrine*' [See: **Calcutta Gujarati Education Society Vs Reg. Provident Fund Commissioner And Ors.** - (2020) 19 SCC 380]. Jurisdiction however cannot be assumed and must be specifically conferred on a quasi-judicial Authority. Further jurisdiction cannot be conferred by consent of parties to the dispute and hence a challenge to jurisdiction of an Authority needs to be examined at the threshold because any order/judgment passed by an Authority without jurisdiction would be 'coram non jndice' or 'before a court lacking jurisdiction' and would be considered void or a nullity which is non est and of no legal effect. [See: **Kiran Singh & Ors. Vs Chaman Paswan & Ors.** - AIR 1954 SC 340].

5. Section 152 of the Customs Act, 1962 empowers the Central Government to delegate the powers exercisable by CBEC (now CBIC) or any of its officer under the Act, to any other officer of Customs by issuing a notification in the official Gazette. Such delegation may be unconditional or may be subject to conditions as specified in the notification issued in this regard. We find that the SCN in the impugned appeal covers the clearance of goods from Customs formations located in different parts of the country, including Ahmedabad, Chennai, Mumbai, Cochin, Visakhapatnam, Mangalore, Kolkata etc. As per para 47 of the impugned order, the CBEC in exercise of its powers under Section 4 and 5 of the Customs Act, 1962, had vide Notification 14/2009 Cus. (NT), dated 20.01.2009 appointed the Commissioner of Central Excise and Customs, Surat – I as 'Common Adjudicating

Authority'. The question arises as to whether the Chennai Bench of CESTAT (formerly CEGAT - herein after also referred to as 'Tribunal'), would have jurisdiction to hear an appeal relating to appellant-importers, when arising out of an order passed by the Commissioner of Central Excise and Customs, Surat - I, Gujarat, as Common Adjudicating Authority.

6. We find that the submissions made by the Ld. A.R. Smt. Anandalakshmi Ganeshram on behalf of revenue and filed on 31.07.2025, states that there are 164 co-noticees in the impugned OIO 23/MP/2012-13 dated 18.02.2013. The said SCN has been adjudicated by the Commissioner of Central Excise, Customs & Service Tax, Surat I, on an investigation carried out by the ADG, DRI, Ahmedabad relating to the alleged fraudulent exports made by declaring inflated price. The main appellants were M/s. Ayuah Exports and M/s. Astha Exim and their proprietors from Surat. An appeal has already been filed by M/s. Astha Exim against the impugned order before CESTAT Ahmedabad, which came to be dismissed vide Final Order No. 11462/2014 dated 24.07.14. The Ld. A.R. submitted that out of the total 164 co-noticees, only 10 co-noticees belong to Tamilnadu and out of that 10 co-noticees only two of them have filed appeal before the CESTAT, Chennai (M/s. Habasit Lakoka and G Tech Stone Ltd). She submitted that once the appeal filed before CESTAT, Ahmedabad has been accepted and decided, it appears that there is no jurisdiction for CESTAT, Chennai for accepting the appeal filed by the other appellants against the same impugned order. She hence prayed that the appeals filed by the party may be rejected and render justice.

7. The Ld. Counsel for the appellant Shri S. Murugappan, in his written submissions dated 08.09.2025 submitted as under:

“The above appeal was filed before this Hon'ble CESTAT Bench at Chennai against the Order-in-Original No.23/MP/2012-13 dated 18.02.2013 passed by the Commissioner of Central Excise, Customs & Service Tax, Surat-1. This order was passed by the above Adjudicating Authority, in his capacity as 'Common Adjudicating Authority and involves 164 Parties.

2. As far as the appellants are concerned, the imports made by them and covered by the impugned order mentioned above, are made through Chennai Port

3. Under such circumstances, taking into account the CEGAT Notification No.5/1995 dated 31.05.1995, the appeal was filed before Chennai Bench. In this connection, Proviso to Paragraph 3, is extracted below. The above CEGAT Notification No.5/1995 appears to suggest that normal requirement with regard to jurisdiction of the Bench is determined based on the imports or exports made through a particular port/customs station.

"Provided that where an appeal arises out of imports or exports through a port/customs station, and the concerned importer or exporter is located within the jurisdiction of a Bench other than the Bench which would normally have jurisdiction in respect of customs matters relating to that port/customs station, the appeal and matters connected therewith may, at the request of the importer or exporter (being the appellant or respondent) be dealt with by the Bench within whose jurisdiction the office of such importer or exporter is located, or he normally resides.

On an application being moved in this regard and on sufficient cause being shown the Bench concerned having jurisdiction may transfer the matter to the other Bench subject to the general or special order of the President in this regard"

4. In the present case, it appears that a few appellants have filed appeals before CESTAT, Ahmedabad Bench against the same order.

5. It is also noticed that in terms of a CESTAT Notification No.1/2022 dated 24.01.2022, where appeals against the same order are filed before different benches, the same are to be heard by a particular bench in terms of a Special Order to be issued by the Hon'ble President.

6. Copies of the CEGAT Notification No.5/1995 dated 31.05.1995 and CESTAT Notification No. 1/2022 dated 24.01.2022 are enclosed to this Memo.

7. Considering the above, it is prayed that the issue may be referred to the Hon'ble President for passing appropriate orders as per CESTAT Notification No. 1/2022 mentioned above.”

The Ld. Counsel enclosed 2 sets of memos for forwarding their request to the President, CESTAT, for constituting/authorizing a Bench for hearing, their appeal arising out of the impugned OIO No. 23/MP/2012-13 dated 18.02.2013.

8. CESTAT Notification No. 1/2022, dated 24.01.2022, issued from F. No. 01(OS)/Circular/CESTAT/2021, cited by the Ld. Counsel, is reproduced below for easy reference:

“In supersession of Public Notice No. 02 of 2005 dated 05.08.2005, the Hon'ble President directs that appeals arising within the jurisdiction of Principal/ Regional Bench will be filed and heard before the respective Bench, but appeals filed against the same impugned order before different Benches will be heard by a Bench, as may be constituted by the Hon'ble President by way of special order in this behalf, when any of the jurisdictional benches refers the matter on an application filed by a party. ‘

9. We have carefully considered the rival submissions. We find that this is an appeal whose cause of action, arises from the exercise of power by the Ld. Adjudicating Authority who is situated outside this Tribunal's territorial jurisdiction along with the main appellants, although the situs of the appellants here is within its territory. Further we have been informed by both parties that an appeal by the main appellants has already been heard by the Ahmedabad Bench of this Tribunal. Hence as per the principle of comity of Courts, where one Tribunal is already in seisin of the lis on merits, it is appropriate for the other Tribunal to decline jurisdiction over the same subject matter.

[See: **Narendra Kumar Maheshwari Vs Union of India and Others**, [AIR 1989 SC 2138; Hon'ble Madras High Court judgment in **Dalmia Cement (Bharat) Limited Vs Competition Commission of India & Ors** - W.P.Nos.22263 & 22045 of 2023 DATED:14.08.2023].

Hence in the light of the prayer and application made by the Ld. Counsel for the appellant above, citing CESTAT Notification No.1/2022

dated 24.01.2022, we direct the Registry to place the matter before the Hon'ble President for passing a special order constituting a Bench to hear and decide the appeals. The appeals filed before us are disposed of accordingly.

(Order pronounced in open court on 23.09.2025)

**(AJAYAN T.V.)**  
Member (Judicial)

**(M. AJIT KUMAR)**  
Member (Technical)

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