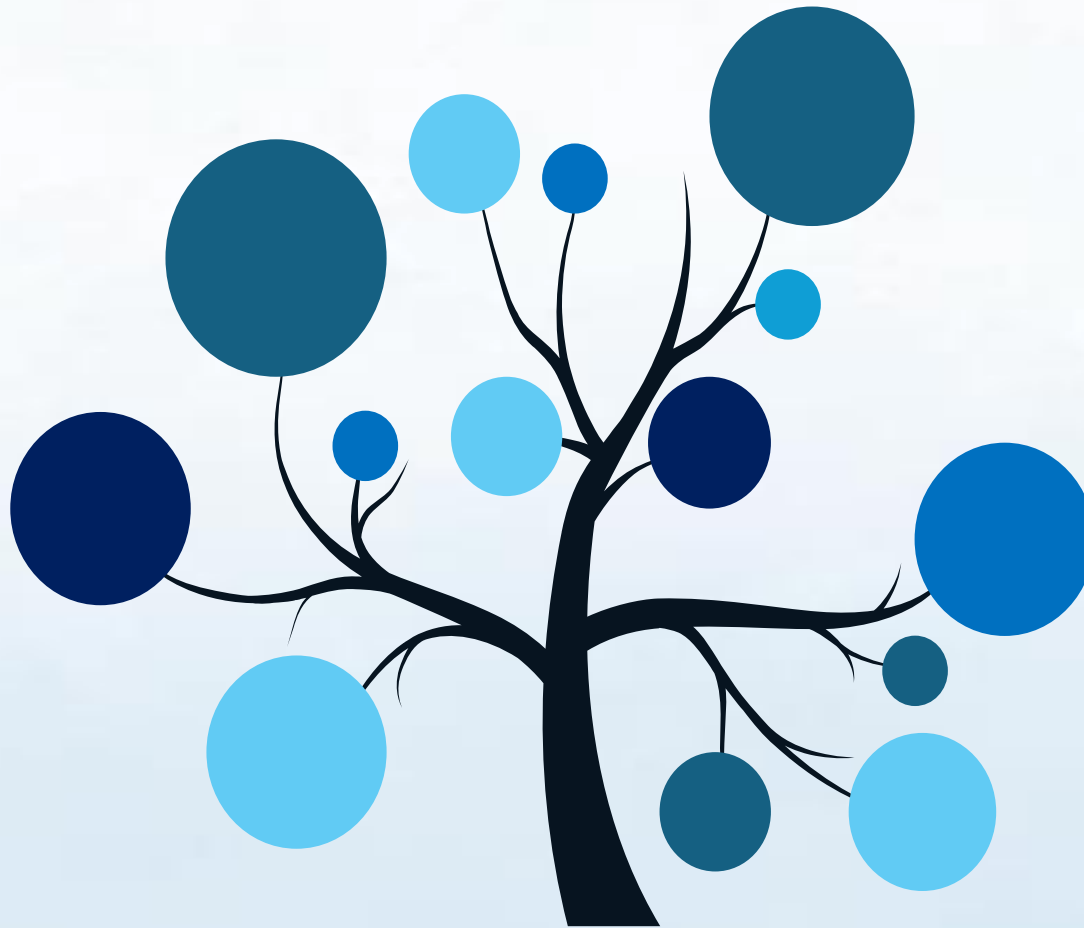


# Customs Compendio

Volume 1



Snippets from Mukesh Manish & Kalpesh, Chartered Accountants



## Issue

Whether Wireless Access Points ( WAP) having MIMO capability alone will be excluded by entry SI No 13 ( iv) of Notification 24/2005 Cus. as amended by Notification 11/2014

## Decision

- Entry SI No 13(iv) at the relevant time read as ‘Multiple Input/Multiple Output(MIMO) and Long-Term Evolution(LTE) products’.
- CESTAT accepted the stand of the importer that the entry will cover only products having both MIMO and LTE technologies.
- The word,” and” should be understood in a conjunctive manner and therefore WAP having MIMO technology alone will not fall under the excluded category, CESTAT also relied on their own of Ingram Micro India Pvt. Ltd.



## Issue

The issue involved in the present case is that whether the Notification No. 46/2015-Cus dated 17.09.2015 is effective from the date of notification i.e. 17.09.2015 or the date when it was offered for sale i.e. 21.09.2015.

## Decision

- The enhanced rate of customs duty would be applicable only from the date of sale by director of publicity from 21.09.2015 only and not from 17.09.2015 as contended by Revenue.
- Note: Section 25 (4) ibid has since been amended effective from 14.05.2016 to the effect that the date of effect of any notification issued under Section 25 (1) or (2) will be the date of issue for publication in the official gazette.

**GO IP GLOBALSERVICES PVT. LTD - 2024 (1) TMI  
194 - CESTAT NEW DELHI**

**PATANJALI FOODS LIMITED - 2024 (1) TMI 192 -  
CESTAT AHMEDABAD**



### Issue

Applicability of BIS registration requirements for imported Electrical capacitors under the **Electrical Capacitor (Quality Control) Order, 2017**.

### Decision

- The BIS standard IS 13340 : 1993, which the capacitors have to comply with , specifically excluded Capacitors intended to be used in various types of electrical equipment and thus considered as components.
- As the imported capacitors are used in the manufacture of various products such as Line Interactive UPS, Various UPS., CESTAT held that the Quality Control Order will not apply.

**PELF POWER ELECTRONICS PRIVATE LIMITED  
VERSUS 2024 (1) TMI 96 – CESTAT MUMBAI**



### Issue

Discharge of duty on imported Capital goods by an EOU. The EOU discharged duty at 50% of the Customs duty in terms of Notification 23/2003 CE and had also discharged the duty by debit to the CENVAT Account. The importers case was on limitation as the SCN demanding duty was issue invoking the extended period of limitation.

### Decision

As the duty payment details were intimated through the ER-II returns and a similar matter was also deliberated by single member and a Division Bench of the Tribunal, the Chennai Bench of CESTAT held that the invocation of the extended period of limitation was not correct and set aside the order demanding duty, interest and levying penalty.

**M/S. BLUE MOUNT TEXTILES  
2024 (1) TMI 146 - CESTAT CHENNAI**



### Issue

Classification of calcined quick lime. The dispute was between CTH 2522 and CTH 2825.

### Decision

CESTAT decided CTH 2522 will be appropriate on the grounds that a) the product is a calcined Lime stone with purity less than 97% and b) Note 11 to Ch 28 will exclude the product in question.

**JK PAPER LIMITED VERSUS - 2024 (1) TMI 144 -  
CESTAT AHMEDABAD**



### Issue

Import of watermelon seeds after the imposition of restriction on imports.

### Decision

Since the imports were made within the original validity period of an irrevocable commercial letter of credit established before the date of imposition of such restriction, the Transitional Provision under Para 1.05 (b) of FTP would apply. The watermelon seeds were freely importable even when the restriction was in force on the date the goods landed in India.

**REENA BROTHERS - 2024 (1) TMI 143 - CESTAT  
AHMEDABAD**



## Issue

Classification of Data Projector Model X 122H DLP XGA Projector 270 3D and the eligibility to the Customs duty exemption under Notification 24/2005 Cus as ITA bound goods.

## Decision

The Data projectors in question would be classifiable under Heading 85286100, and entitled to exemption under Notification No. 24/2005-Cus. dated 1.3.2005 While coming to the above conclusion the CESTAT held common parlance test' or the commercial usage test' is generally preferable especially while classifying consumer goods but when the goods have to be tested for their sole or principal use, technological capabilities cannot be completely discarded.

**M/S. ACER INDIA PVT. LTD - 2024 (1) TMI 147 -  
CESTAT CHENNAI**



## Issue

What will be the relevant rate applicable for export of goods.

## Decision

The rate of export duty applicable will be rate on the date of Let Export order (LEO). The reduced rate of export duty that came into effect after the date of LEO will not be applicable. While Section 16 (1) (a) of the Customs Act 1962 is clearly decisive on this issue, the CESTAT also placed reliance on the Bombay High Court in NARAYAN BANDEKAR case.

**M/S. R.M.K.S MINERALS EXPORTS P. LTD. -  
2024 (1) TMI 346 - CESTAT BANGALORE**



### Issue

Alleged misdeclaration and misclassification of Light Diesel oil ( LDO) AS Liquid paraffin on the basis of a questionable test report.

### Decision

CESTAT accepted the claim of the importer that the impugned product was Liquid Paraffin and rejected the stand of Revenue on the grounds that a) The rejection of the claim for retesting of the sample by the importer was incorrect as it created a serious doubt on the original test report and b) the protocol followed for testing was not admittedly proper.

**ALKA PETRO GLOBAL PRIVATE LIMITED - 2024  
(1) TMI 200 - CESTAT AHMEDABAD**



### Issue

Rejection of the request for amendment under Section 149 of the Customs Act, 1962 in respect of goods lost while transferring the goods from the ships to the jetty.

### Decision

The date of final assessment and clearance will be relevant date of clearance and any documents available and presented to customs prior to this date should suffice to meet the requirements under Section 149 ibid. As the police report on the loss of goods preceded the date of final clearance and the same was also presented to customs, the appellants met the requirements under Section 149 ibid. Reliance placed on Zuari Agro Chemicals Ltd - 1996 (5) TMI 447 - SC Order

**INDIAN FARMERS FERTILISER CO OPERATIVE  
LTD - 2024 (1) TMI 198 - CESTAT AHMEDABAD**

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