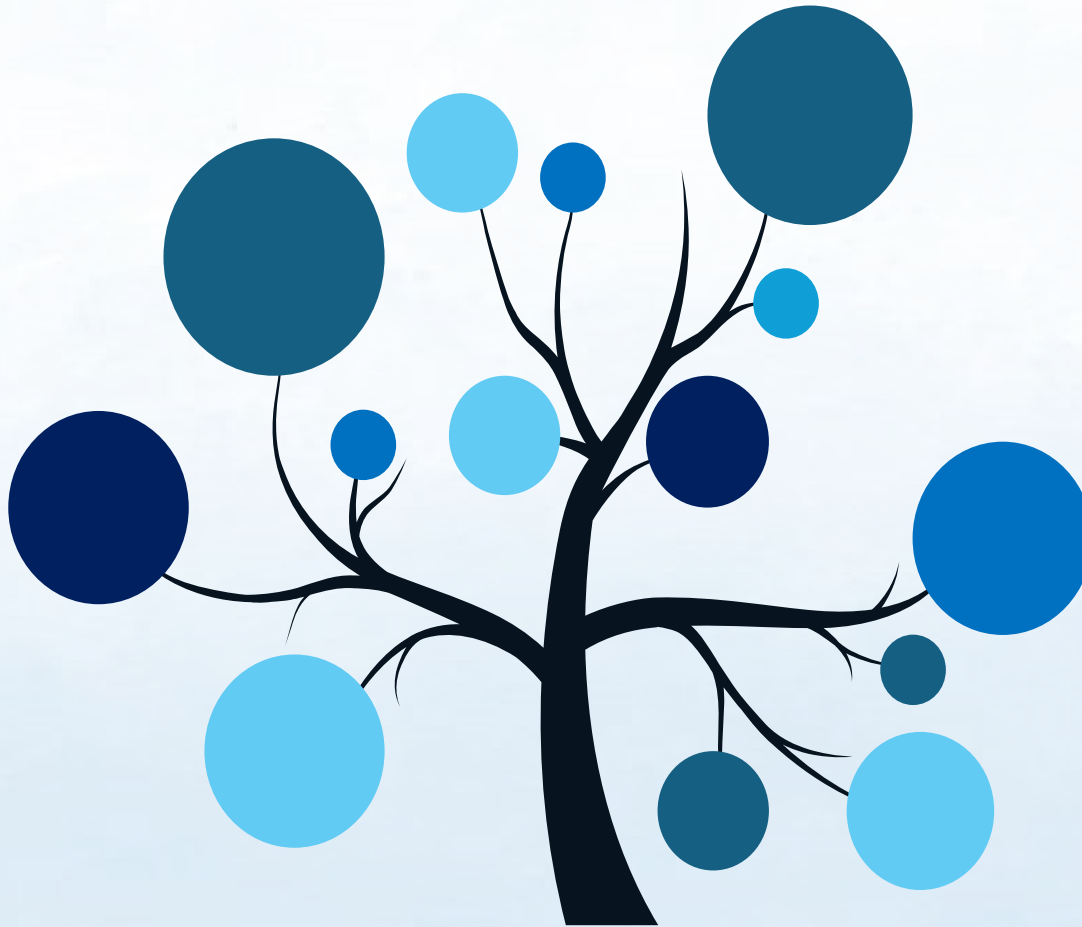


# Customs Compendio

Volume 4



Snippets from Mukesh Manish & Kalpesh, Chartered Accountants



### **Issue**

1. Can the values of imported goods can be enhanced on the strength of consent letters from the Directors of the importing company without following the procedure prescribed in the Customs Valuation Rules 2007?
2. Can a classification decision be reached in the strength of test of reports of a few samples without testing all the samples collected?
3. Can the importer be penalized for incorrect declaration of country of origin deeming it to a misdeclaration?

### **Decision**

Burden on revenue to undertake test reports of all sample. Once that is not done, test report of one sample is inadmissible. Further, valuation is to be done by the Department basis the valuation rules and importer cannot be penalized for misdeclaration as it was not his mistake.

**M/s. RAJKAMAL INDUSTRIAL PVT LTD**  
**2024 (2) TMI 314**  
**CESTAT AHMEDABAD**



## Issue

- (i) Whether the period of validity for availing the Duty Credit Benefits under the TPS as 24 months from the date of issue of scrips is without jurisdiction and illegal ?
- (ii) Whether the Entry 56 made vide notification, dated 01.07.2017 is illegal and amounts to taking away the vested rights of the petitioner?
- (iii) Whether the petitioner is entitled for extension of time to avail the Duty Credit in view of the delay on the part of the respondents in issuing the Duty Credit Scrips?
- (iv) Whether credit could be used to defray IGST and GST compensation cess as against the permitted additional duty under Section 3(1), 3(3) and 3(5) of the CTA 1975?

## Decision

Writ petition dismissed by giving answers for all the four questions in favour of Government

**M/s. VEDANTA LTD**  
**2024 (2) TMI 1102**  
**MADRAS HIGH COURT**



## **Issue**

Misclassification of goods and the invocation of the extended period for the issue of Show cause notice by the customs authority

## **Decision**

Invocation of the extended period is not correct. The imports were prior to the introduction of the self-assessment in customs. The duty of determining the appropriate duty payable was on the Proper Officer prior to the introduction of self-assessment. The benefit of HSN Explanatory notes was available to the officers and not to the importers. Invocation of extended period could not be justified when all relevant information was available to customs officers and the importer could not be accused of suppressing any information.

**M/s. SHREEJI SHIPPING**  
**2024 (2) TMI 29**  
**CESTAT AHMEDABAD**



### **Issue**

- a) Whether Commissioner (Appeals) was right in remanding the matter back to the original authority where:
  - (i) He has rejected the 100% loading by SVB authorities under Rule 9 where they had rejected the transaction value and
  - (ii) Rejected all other methods of valuation under the Customs Valuation Rules 2007 and
- b) Addition of Royalties payable for the manufacture of goods in India under Rule 10 (1)(c) ibid

### **Decision**

- a) Remand order held to be incorrect as the Commissioner (Appeals) has rejected 100% loading under Rule 9 ibid and there is no challenge to the rejection of all other methods of valuation and hence the issue has become final
- b) Royalties payable for manufacture of goods not addable to the transaction value.

**M/s. CHEM REND CHEMICALS CO. PVT. LTD.**  
**2024 (2) TMI 1096**  
**CESTAT BANGALORE**



## **Issue**

Whether Home UPS were mere power supply units for Data Processing Equipment and were not eligible to be treated as “Static Converter for use in Data Processing Machines” and entitled to the exemption under Notification 25/2005 Cus (ITA notification)

## **Decision**

There is nothing restricting the claim of the said exemption as long as the imported goods meet the said description. Their duality or exclusivity of usage are immaterial. In fact, the wordings of the notification do not relate the benefit to any end use of the said goods. All that is mandatory to be eligible to avail the said duty benefit is the requirement of the product being a “Static Converter for Data Processing Equipment”. An exemption notification is to be read into strictly and no word can be added or deleted thereto and no room for intendment and regard is to be given to the clear meaning of the words.

**M/s. CYBER POWER SYSTEM INDIA**  
**2024 (2) TMI 875**  
**CESTAT KOLKATA**



### **Issue**

Whether CVD was attracted on the imported rubber tires cut into three pieces when there was no manufacture attracting central excise duty.

### **Decision**

Tribunal Orders were set aside and the matter remanded for fresh consideration on merits and in accordance with law as the Delhi High Court ruling relied upon by the Tribunal was set aside by the Supreme Court.

**M/s. TINNA RUBBER  
INFRASTRUCTURE LIMITED  
2024 (2) TMI 778  
MADRAS HIGH COURT**



### **Issue**

Whether inculpatory statement of co-Noticee be a conclusive proof against co-Noticee without corroboration?

### **Decision**

The Appellant is not considered guilty based on the confession of the co-accused without semblance of corroboration or circumstances. If statement of an accomplice accepted without material corroboration, it will be travesty of justice.

**M/s. N.K.R. CORPORATION  
2024 (2) TMI 1101  
MADRAS HIGH COURT**





### **Issue**

Non-compliance to Orders of the Appellate authority by the subordinate original authority though an appeal has been filed by Revenue against the order

### **Decision**

Revenue directed to release the Friction Testing Machine as ordered by the Appellate Authority, without prejudice to their rights and contentions in the Appeal filed by them applying the principle of judicial discipline.

**M/s. SAINATH AVIOTECHNICS PVT.  
LTD. - 2024 (2) TMI 1145  
BOMBAY HIGH COURT**



### **Issue**

Penalty under Section 114(i) of the Customs Act, 1962- Whether mens - rea required or not.

### **Decision**

Mens-rea is not required to be proved for levy of penalty. As the goods required an authorization for export from competent authority, export without obtaining such authorization render the goods liable for confiscation, which is the only condition to satisfied for levy of penalty under Section 114 (i)

**M/s. ROYAL INTERNATIONAL  
2024 (2) TMI 96  
CESTAT CHANDIGARH**





### **Issue**

Redetermination of declared values on the basis of NIDB data and non-affixation of MRP/ RSP labels as required under rules.

### **Decision**

Redetermination of declared values on the basis of NIDB data held to be incorrect. Non-affixation of MRP/RSP labels as per PC Rules held to be a curable defect and would not amount to contravention of Standards of Weights and Measures (Packaged Commodities) Rules, 1977.

**M/s. GYPSIE IMPEX  
2024 (2) TMI 316  
CESTAT CHENNAI**



### **Issue**

Time limit for claiming refund under Sec 27 in cases where the initial duty is paid under protest and the protest is vacated by the order of a higher judicial forum

### **Decision**

The limitation should be reckoned from the date of the order vacating the protest as the doctrine of merger will apply and protest cannot exist when the same is vacated by the order of the higher judicial authority.

**M/s. GOLD QUEST INTERNATIONAL  
PVT. LTD. - 2024 (2) TMI 320  
CESTAT CHENNAI**



### **Issue**

When more than one beneficial notification is available to the importer, whether the importer can claim the more beneficial one

### **Decision**

It is the choice and the option of the importer to claim the benefit of a Notification that suits him; and it is also permissible to claim the benefit of any Notification at a later stage notwithstanding the fact that the importer claimed benefit of another Notification at the initial stage.

**M/s. CHHAJED FOODS PVT LTD  
2024 (2) TMI 1320  
CESTAT AHMEDABAD**



### **Issue**

Classification of quick lime and availability of concessional IGST at 5% by claim of exemption under Notification No. 50/2017 - Customs dated 30.06.2017

### **Decision**

Classification under CTH 2522 approved on the ground that the maximum calcium oxide content was 92% as against 98% required for classification under CTH 2825. Concessional IGST at 5% was also available as Quick lime is specified in the exemption entry.

**M/s. SANYO SPECIAL STEEL  
MANUFACTURING INDIA PVT. LTD.  
2024 (2) TMI 1029 - CESTAT MUMBAI**



### Issue

Sustainability of cess, when basic customs duty(BCD) itself was Nil - contention of the department is barring the BCD, other duties namely EC, SHEC and SWS ought not to have been debited in the duty credit scrips

### Decision

Tribunal agreed with the principle that when the base duty is zero, a cess based on that duty will also be zero.

**M/s. LOUIS DREYFUS COMPANY INDIA  
PVT LTD - 2024 (2) TMI 446  
CESTAT AHMEDABAD**



### Issue

Denial of SAD refund on the ground that two claims were filed against one bill of entry. In this case paid the import duty through cash and DEPB scrip. One of the conditions specified in the CBEC Board Circular No.06/2008-Cus dated 28.4.2008 was that more than one claim cannot be permitted against one bill of entry

### Decision

Refund allowed on the ground that procedural infractions cannot be permitted to deny a substantial benefit.

**M/s. HAMILTON HOUSEWARES PVT  
LTD. - 2024 (2) TMI 1264  
CESTAT AHMEDABAD**

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