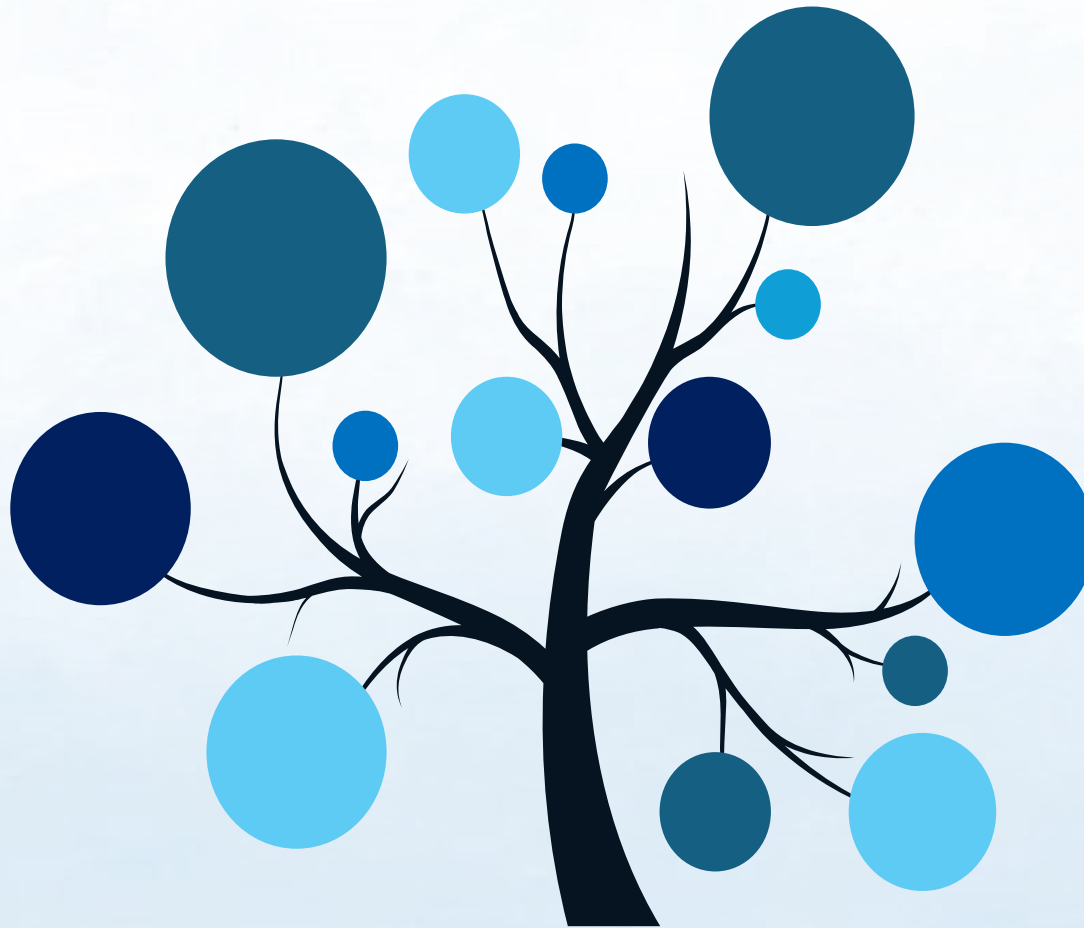


Customs Compendio

Volume 6



Snippets from Mukesh Manish & Kalpesh, Chartered Accountants



Issue

Levy of Social Welfare Surcharge (SWS) on goods on which BCD was debited to MEIS and SEIS scrips under specific exemption notifications.

Decision

Goods imported under the exemption notification for MEIS and SEIS scrips were exempted from BCD and Additional duty of Customs in full and there was no liability to pay BCD by the importer. This is an admitted fact. Further, the leviability of SWS is based on levy and collection of BCD, which itself is exempted. There cannot be any collection of SWS on such goods cleared under the aforesaid exemption notifications.

M/s. EMAMI AGROTECH LTD
2024 (3) TMI 86
CESTAT HYDERABAD



Issue

Classification of goods declared as “Pump-1.200-GS-THREAD-28/410-2N-192.0(Pump for lotion dispenser)” - Whether under CTH 84248990 or CTH 84249090 or CTH 8413 or under CTH 9616 as scent spray.

Decision

The product in question is a pump for displacing and dispersing the lotion/cream. Hence, it is definitely not a scent spray or toilet spray (CTH 9616). It is a pump but not the one under 8413 where the pumps meant only for displacement of liquids are covered. The goods in question is held to be covered under CTH 84248990 being the pumps meant not only for displacing the liquid/lotion but for simultaneously dispersing the same.

M/S. APTARPHARMA INDIA PVT. LTD.
2024 (3) TMI 139
CESTAT NEW DELHI



Issue

Legal feasibility of adjudication of a Notice issued by DRI, when the process of adjudication of another Notice issued on identical grounds has been stayed by Mumbai HC , pending a decision by the Hon'ble Apex Court on question of DRI's jurisdiction to issue a Notice under Section 28 of the Customs Act, 1962 and when the Adjudicating authority has taken the position to follow the HC's decision and keep the adjudication in abeyance.

Decision

Tribunal directed adjudication of the Notice within four weeks as the Mumbai HC decision did not apply to the Notice issued to the entity facing liquidation.

**M/s. RAMAKRISHNA SADASIVAN (LIQUIDATOR OF COASTAL ENERGY PVT LTD)
2024 (3) TMI 506
CESTAT MUMBAI**



Issue

Classification of goods described as -“ Nut tie Bar, Screw, Screw Tip, Locking ring” - whether the revenue is correct in re-classifying the goods in question under CTH 7318 instead of the declared classification CTH 84779000?

Decision

Classification under CTH 84779000 approved on the ground that the Revenue failed to justify the classification under CTH 7318, when neither any fault found with the nature or even the usage of the goods in question, nor was there any counter to the technical write-up as to the design and usage of the goods in question.

M/S. SHIBAURA MACHINE INDIA PVT. LTD.
2024 (3) TMI 363
CESTAT CHENNAI



Issue

Admissibility of refund claim when two concessional notifications are applicable and the importer chooses the more beneficial one by way of an amendment application under Section 149 of the Customs Act, 1962.
Need to challenge the initial assessment when an application for amendment filed?

Decision

The importer eligible to claim the more beneficial concession when an amendment application also filed. The ratio of the Hon'ble Supreme Court in the matter of M/s. ITC Ltd. [2019 (9) TMI 802] - SUPREME COURT not applicable.

M/S. HATCOM AGRO (P) LIMITED
2024 (3) TMI 1112
CESTAT KOLKATA



Issue

Rejection of the declared values under Rule 12 of the Customs Valuations Rules 2007 on the ground that on previous occasions loading was accepted by the importer for similar products.

Decision

Rejection not proper in the absence of contemporaneous imports or evidence towards remittance of higher values through non-banking channels. Acceptance of the loaded value, in the past, for whatever reason that maybe, cannot be a reason to accept the declared value in the impugned case. It is settled by the law that the principle of estoppel is not applicable to taxation matters.

M/S. TDT COPPER LIMITED
2024 (3) TMI 1247
CESTAT CHANDIGARH



Issue

Classification of Brush cutters -whether under CTH 84322990 or CTH 84678990 and invocation of the extended period of limitation

Decision

Classification under CTH 84678990 is appropriate and invocation of the extended period of limitation not justified when the importer has declared the product correctly in the bills of entry and the catalogues provided to Customs.

**M/s. HIKOKI POWER TOOLS INDIA
PVT LTD - 2024 (3) TMI 137
CESTAT BANGALORE**



Issue

Liability to interest on finalisation of provisional assessment when the Provisional assessment was resorted to prior to 13 July 2006

Decision

Issue is no longer res-integra. The liability to interest will arise only for provisional assessments resorted to after 13 July 2006 and not to the provisional assessment resorted prior to 13 July 2006 even though the finalization took place after this date.

**M/S. CENTURY PULP & PAPER
2024 (3) TMI 508
CESTAT KOLKATA**



Issue

Classification of API Supari - Chikni Supari; Unflavoured Supari; Flavoured Supari; Boiled Supari

Decision

Classification approved under CTH 080280 in preference to CTH 210690 on the ground that betel nuts retain the character of betel nut even after being subjected to specified process and therefore do not qualify to be considered as “preparations” of betel nut, which is sine qua non for a goods to be classifiable under Chapter 21

**M/s. SHREEHARI ANANTA OVERSEAS
PVT. LTD - 2024 (3) TMI 807
AAR, NEW DELHI**



Issue

Classification of Optoma Creative Touch 5-series Interactive Flat Panel (IFP)

Decision

Classification of Optoma Creative Touch 5-series Interactive Flat Panel (IFP) approved under CTH 8471 4190 of the First Schedule to the Customs Tariff Act, 1975.

**M/s. SUPERTRON ELECTRONICS PVT.
LTD - 2024 (3) TMI 505
AAR, NEW DELHI**

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