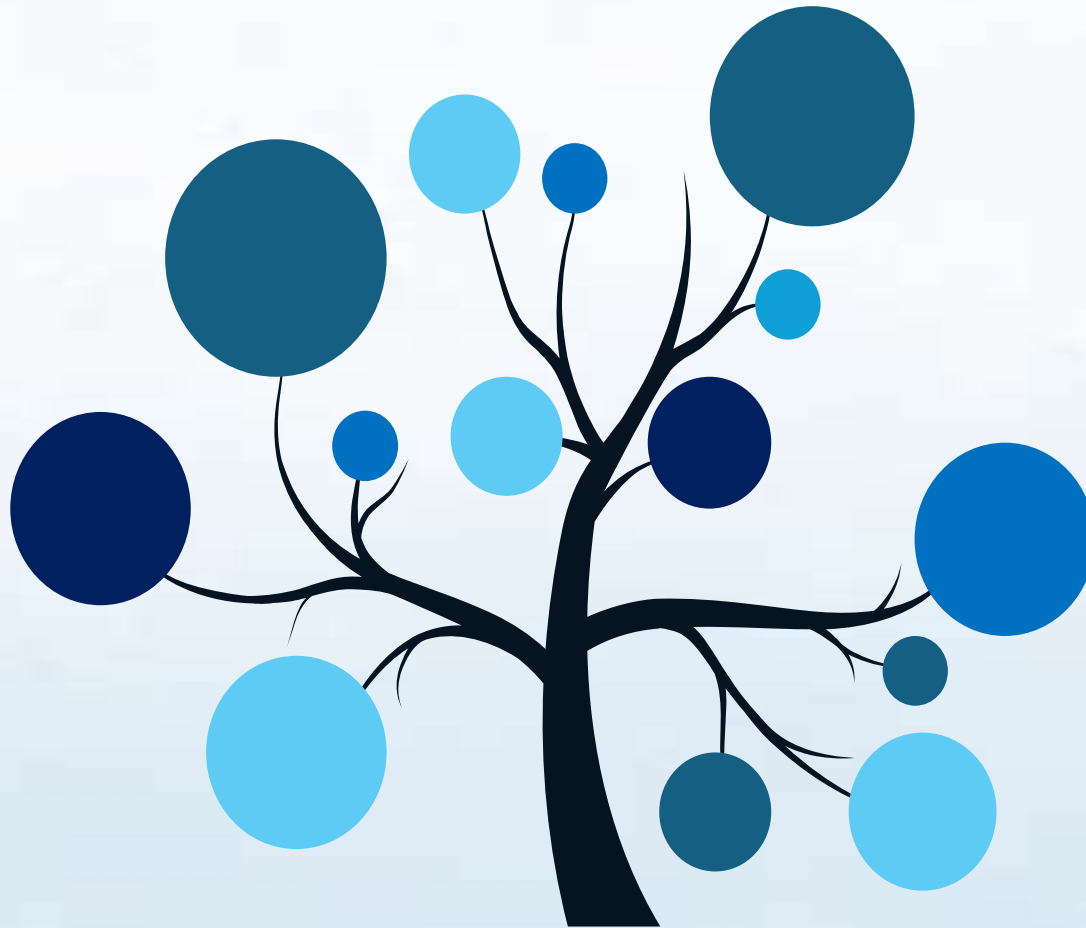


# Customs Compendio

Volume 16





### **Issue**

Challenge to the Tribunal's decision on the classification of ground glass described as 'BIOMIN F-Ground Glass (Fluoro Calcium Phospho-Silicate)' and 'BIOMIN C-Glass (Chloro Calcium Phospho-Silicate)' used in the manufacture of toothpaste. The Tribunal classified both products under CTH 3207 40 00 and not under CTI 3824 99 90, as claimed by the Revenue. Further, the Tribunal also concluded that no separate classification was required to be adopted for 'plastic pallets' used as packing containers or packing material when presented along with the imported goods.

### **Decision**

SC dismissed the appeal filed against the Tribunal decision thus confirming the Tribunal decision.

**M/s. GROUP PHARMACEUTICALS LTD.  
2024 (10) TMI 913  
SUPREME COURT**



## Issue

Vires of paragraph 3(a) of Circular No. 36/2010-Customs, dated 23.09.2010, issued under the Customs Act, 1962, prescribing a time limit of three months for seeking the conversion of free shipping bills to export promotion scheme shipping bills and the conversion of shipping bills from one scheme to another.

## Decision

Paragraph 3(a) of Circular No. 36/2010-Customs, dated 23.09.2010, was held to be ultra vires Articles 14 and 19(1)(g) of the Constitution of India and also ultra vires Section 149 of the Customs Act, 1962. Reliance was placed on the decision of the Hon'ble High Court on an identical question in ***M/S MAHALAXMI RUBTECH LTD. VERSUS UNION OF INDIA*** [2021 (3) TMI 240 - GUJARAT HIGH COURT].

**M/s. DB GUJARAT TEA PROCESSORS AND PACKERS LTD.**

**2024 (10) TMI 68**

**GUJARAT HIGH COURT**



### Issue

Whether the action of the Tribunal in treating the claim for differential customs duty as abated under Rule 22 of the CESTAT (Procedure) Rules, 1982 was correct, when the claims for the said differential duty were not lodged before the IRP before the finalisation of the Resolution Plan?

### Decision

"The abatement will be governed by sub-section (1) of Section 31 of the IBC, 2016, and not under Rule 22 of the CESTAT Procedure Rules, 1982. Reliance was placed on the Hon'ble SC decision in the matters of ***GHANSHYAM MISHRA V. EDELWEISS RECONSTRUCTION COMPANY LTD., (2021) 9 SCC 657, AND RUCHI SOYA INDUSTRIES LIMITED V. UNION OF INDIA, (2022) 6 SCC 343.***

Our comments: This is a strange case where the Revenue was not challenging the appeal, holding that they would abide by the settled law. The Tribunal, though it had decided the matter against the Revenue, had done so under an inapplicable provision, and the challenge was by the importer and not the Revenue.

**M/S. PATANJALI FOODS LIMITED**  
**2024 (10) TMI 233**  
**KARNATAKA HIGH COURT**



## Issue

Levy of IGST separately under section 5 (1) of the IGST Act on imports under FOB contracts.

## Decision

When IGST at the time of imports is levied on a value including Cost, Insurance, and Freight (CIF) value as provided under Section 3(12) of the Customs Tariff Act, 1975, there is no case for a separate IGST levy on imported goods under FOB contracts. Reliance was placed on the SC decision in the case of ***UNION OF INDIA AND ANOTHER V. MOHIT MINERALS PRIVATE LIMITED*** through Director, [2022 (5) TMI 968 - Supreme Court] as well as by the Bombay High Court In the case of ***M/S AGARWAL COAL CORPORATION PVT. LTD.***, [2024 (3) TMI 1265 - Bombay High Court]

**BLA COKE PVT. LTD.**  
**2024 (10) TMI 492**  
**GUJARAT HIGH COURT**



## Issue

Interest on the delayed refund of Special Additional Duty (SAD) in terms of Section 27 of the Customs Act, 1962 – relevant date for reckoning interest.

## Decision

The relevant date will be three months from the date of application. On interest liability, reliance was placed on the Delhi High Court's decision in ***S.R. POLYVINYL LTD. VS. COMMISSIONER OF CUSTOMS***, [2019 (11) TMI 543 - Delhi High Court], and the Hon'ble Supreme Court's decision in the case of ***UNION OF INDIA VS. HAMDARD (WAQF) LABORATORIES***, [2016 (3) TMI 68 - Supreme Court].

**M/s. AJAY INDUSTRIAL CORPORATION LTD.**  
**2024 (10) TMI 734**  
**BOMBAY HIGH COURT**



### Issue

Liability to interest on finalisation of provisional assessment initiated before 13.07.2006 but finalised after this date – when Section 18(3) was introduced in the Customs Act, 1962, providing for the demand of interest.

### Decision

"No liability to interest for provisional assessments initiated before 13.07.2006 but finalised after this date. Reliance was placed on the Gujarat High Court decision in the case of ***COMMISSIONER OF CUSTOMS VS. GOYAL TRADERS, [2011 (8) TMI 720 - GUJARAT HIGH COURT]***.

**M/S. CISCO SYSTEMS PVT LTD.  
2024 (10) TMI 845  
KARNATAKA HIGH COURT**



## **Issue**

Delay in adjudication of the Show Cause Notice for more than 20 years – Fact of transfer to the Call Book not informed to the Noticee.

## **Decision**

Show Cause Notice quashed following the ratio laid down by the High Court in the cases of Sanghvi Reconditioners Pvt. Ltd. v. Union of India & Ors., 2017-TIOL-2618-HC-MUM-CUS, and Reliance Industries Ltd. & Anr. v. Union of India & Ors., 2019-TIOL-1597-HC-MUM-CUS. Non-intimation of the fact of transfer to the Call Book to the Noticee was also cited as an additional ground. The HC also rejected the argument that the Noticee did not immediately file an appeal on the HC orders in respect of the common Show Cause Notices quashed in Sanghvi Reconditioners Pvt. Ltd. and Reliance Industries Ltd..

**M/s. THE GREAT EASTERN SHIPPING COMPANY LTD.  
2024 (10) TMI 912  
BOMBAY HIGH COURT**





## Issue

Denial of the opportunity of cross examination of the persons who made the statements relied upon by Revenue- statements, which formed the foundation of the order-in-original - Section 138B of the Customs Act, 1962.

## Decision

When the report of the Chemical Examiner was merely a conclusion and did not contain any analysis on the basis of which the conclusion was drawn, the exporter ought to have been provided an opportunity to cross-examine the Chemical Examiner. Reliance was placed on the decision of Delhi HC ***IN BASUDEV GARG, ARUN GUPTA, ANIL GOEL VERSUS COMMISSIONER OF CUSTOMS***, [2013 (5) TMI 350 - DELHI HIGH COURT].

**SHRI MANISH SINGHAL, SHRIRAVINDER PAL JINDAL, SHRI DINESH BHARADWAJ**  
**2024 (10) TMI 1190**  
**DELHI HIGH COURT**



### **Issue**

Challenge to Clause 3(ii) of the Public Notice dated 24 June 2024, issued  
In the context of third-country invoicing under FTAs – requirement  
seeking an explanation as to whether identical FOB values are  
shown in the CoO and the third-country invoice.

### **Decision**

Challenge to Clause 3(ii) of the said Public Notice (PN) held that it did not  
infringe upon any rights of the importers, and no illegality was found in the  
said clause. The question of eligibility for the FTA concession was left  
to be decided by the adjudicating authority.

*Our comments: The intention behind Clause 3(ii) ibid is not sound, as there is no  
commercial reason for a third party not to follow the FOB value of the  
manufacturer-exporter in their invoice. The third parties are invariably traders;  
they don't add any value, and their profits are part of the FOB price arrived at by  
the manufacturer-exporters, which is part of the local value addition in the  
exporting country. Insisting on a different or lower FOB value at the hands of the  
manufacturer-exporter is seeking a reduction in the actual FOB value at the port of  
export, which is not justified.*

**M/S. IDORI INDIA PVT LTD & ANR  
2024 (10) TMI 1192  
BOMBAY HIGH COURT**



### Issue

Classification of friction materials in powder form used in the manufacture of brake pads – whether under CTH 3824 adopted by the importer or under CTH 6813 contended by Revenue?

### Decision

Classifiable under CTH 6813 – considering the composition of the materials and their usage in the manufacture of the brake pads, it indicates

That the imported materials are more appropriately classifiable

Under Chapter Heading 6813 as friction material.

*Our comments: The Tribunal did not agree that for the classification of friction materials under 6813, the 'form' is more important than the 'substance'. The HSN ENs, however, clearly state that the friction materials of 6813 should have been formed by processes such as shaping, moulding, agglomeration by binders, hardening, and fusion. In other words, materials in powder form imported for being subjected to the above processes will not be covered by this heading. A fit case for challenge.*

**M/S. K.B. AUTOSYS INDIA PVT. LTD.**

**2024 (10) TMI 17**

**CESTAT CHENNAI**



### **Issue**

Classification of photosensitive aluminium printing plates (CTCP aluminium printing plates) – whether classifiable under CTH 8442 or under CTH 3701.

### **Decision**

Classifiable under CTH 3701, as the HSN ENs under CTH 8442 state that photosensitive printing plates are excluded from CTH 8442. Reliance was placed on the Supreme Court decision in LML Ltd. v. Commissioner of Customs, [2010 (9) TMI 12 - SUPREME COURT], to the effect that HSN ENs are a dependable guide for resolving classification disputes.

**M/S. SUN N SAND EXIM (I)PVT. LTD.  
2024 (10) TMI 158  
CESTAT NEW DELHI**



## Issue

Refund of export duty paid in excess – applicability of Section 28D of the Customs Act, 1962.

## Decision

Incidence of export duty not passed on – when the contract is FOB and evidence had also been provided that the FOB value did not include the export duty. Reliance was placed on the Andhra Pradesh High Court decision in the case of ***ASIA PACIFIC COMMODITIES LTD. V. ASSISTANT COMM. OF CUSTOMS, KAKINADA-I***, [2012 (11) TMI 919 - ANDHRA PRADESH HIGH COURT].

**M/S. KINETA MINERALS & METALS LTD.  
2024 (10) TMI 513  
CESTAT BANGALORE**



## Issue

Whether customs can file an appeal against an order under Regulation 21 of the CBLR, 2013?

## Decision

Customs cannot file an appeal against an order issued under the CBLR 2013. Under Regulation 21 of the CBLR 2013, an appeal against the order of the Commissioner is available only to the Customs Broker and not to the Revenue. Reliance was placed on the Delhi HC decision in the case of **TRANSWORLD CARGO** [2023 (3) TMI 847 - DELHI HIGH COURT].

**M/s. LOGIC TRANSWARE (I) PVT. LTD.**  
**2024 (10) TMI 578**  
**CESTAT MUMBAI**



## **Issue**

Liability of the transferee of a fraudulently obtained DEPB  
Scrip for duty and penalty.

## **Decision**

While the transferee is liable to pay the duty, penalty cannot be levied. Reliance was placed on the Hon'ble Supreme Court in the case of M/S. MUNJALSHOWA LTD. VERSUS COMMISSIONER OF CUSTOMS AND CENTRAL EXCISE (DELHI – IV) AND M/S. FRIENDS TRADING CO. VERSUS UNION OF INDIA AND ORS. [2022 (9) TMI 1076 - SUPREME COURT].

**M/S. ITC Filtrona limited**  
**2024 (10) TMI 577**  
**CESTAT BANGALORE**



## Issue

### Interpretation of Duty Demands and Penalties on Transfers Of Non-Forged DEPB Scrips

## Decision

The decision in M/s. ITC Filtrona limited 2024 (10) TMI 577 is at variance with several other decisions in this regard, which made a distinction between a forged or fake DEPB scrip and a scrip obtained by the transferor based on fraudulent documents. Further, it is also well-settled that when the DGFT has not canceled the scrips, the imports made should be deemed to have been made under valid scrips, and hence duty could not be demanded. However, in another identical matter, the Tribunal, after noting that the scrips were not forged, did not accept the argument that the ratio laid down by the Supreme Court in Munjal Showa Ltd – 2022 (382) ELT 145 (SC) would apply. The demand for duty and penalty under Section 114AA was set aside, however, on the ground that the extended period could not be invoked against the transferee-importer, without any allegation or evidence that the transferee-importer appellant was aware of the alleged fraud perpetrated by the exporter-transferor. Reliance was placed on the Gujarat High Court decision in ***Commissioner of Customs, Kandla v. Indian Acrylics Ltd*** – 2016 (336) ELT 474 (Guj.).

**M/s. PETROCHEM MIDDLE EAST INDIA PVT LTD**  
**2024 (10) TMI 843**  
**CESTAT AHMEDABAD**





### Issue

Classification of DLP data projectors – whether under CTH 8528 6100 with exemption from BCD under Notification No. 24/2005-Cus., or under CTH 8528 6900 as 'other projectors' without the said exemption?

### Decision

Classifiable under CTH 85286100, and hence the BCD exemption under Notification 24/2005-Cus. is available. Reliance was placed on the Tribunal's decision in the case of ***M/S. ACER INDIA PRIVATE LIMITED VS. COMMISSIONER OF CUSTOMS, CHENNAI*** [2010 (11) TMI 898 - CESTAT Bangalore], and in ***M/S. ACER INDIA PVT. LTD. VS. CC, CHENNAI*** [2024 (1) TMI 147 - CESTAT Chennai].

**M/S. ANTRAX TECHNOLOGIES PVT. LTD.**  
**2024 (10) TMI 685**  
**CESTAT BANGALORE**



### **Issue**

**Classification of Router Line Cards – Whether under CTH 85177010 as PCBs or under CTH 85176290, as alleged by Revenue?**

### **Decision**

**Classifiable under CTH 85177010 as PCBs, reliance was placed on the Tribunal's decision in the Appellant's own case in 2022 (9) TMI 1600 - CESTAT New Delhi, where the Tribunal held that the cards in question do not have any individual and separable function performed by them, and hence Note 2(b) to Section XVI will be applicable.**

**M/s. VODAFONE IDEA LIMITED  
2024 (10) TMI 636  
CESTAT NEW DELHI**



## Issue

Refund of duty paid on short-landed goods – applicability of the unjust enrichment requirement and eligibility for interest.

## Decision

Unjust enrichment requirement will not apply to duty paid on short-landed goods. Reliance was placed on the Tribunal's decision in the matter of ***PETRONET LNG LTD. VS. COMMISSIONER OF CUSTOMS, AHMEDABAD, 2012*** (275) E.L.T. 568 (Tri. - Ahmd.). Interest is payable from the expiry of three months from the date of application for refund. Reliance was placed on them SC decision in the matter of ***RANBAXY LABORATORIES LTD. VS. UNION OF INDIA AND ORS.*** [2011 (10) TMI 16 - Supreme Court].

**M/s. PETRONET LNG LTD.  
2024 (10) TMI 838  
CESTAT AHMEDABAD**



### **Issue**

Interest liability on delayed payment of IGST on imported goods.

### **Decision**

IGST is not a duty of customs, as it is levied in terms of Section 5 of the IGST Act, read with Section 3(7) of the Customs Tariff Act, 1975. If IGST on inter-state supply within India is paid with delay, interest is payable as per Section 50 of the CGST Act, 2017. IGST paid on supply in the course of international trade stands on the same footing. Therefore, if IGST is paid with delay, either in the course of inter-state supply or during supply in the course of international trade, interest must be paid. The Bombay HC decision in the matter of Mahindra and Mahindra was distinguished. Reliance was placed on the Tribunal's decision in Final Order No. 58005-58006/2024 in Appeal No. 51841 of 2021 in the case of M/s. Mayur Uniquoters Limited and others.

**M/S. PODDAR PIGMENTS LIMITED**  
**2024 (10) TMI 732**  
**CESTAT NEW DELHI**



## Issue

Denial of cross-examination of witnesses whose statements are relied upon by Revenue – Section 138 B of the Customs Act, 1962.

## Decision

In terms of Section 138B *ibid*, cross-examination of the witnesses whose statements were relied upon by Revenue is mandatory. No discretion is provided under Section 138B for the adjudicating authority to use his whims to allow or disallow the cross-examination. Rejection of cross-examination by the adjudicating authority is absolutely contrary to the mandate given in Section 138B *ibid*. Reliance was placed on the following decisions: ***DHARAMPAL SATYAPAL LTD. VS. DY. COMMISSIONER OF C.EX., GAUHATI*** – 2015 (320) ELT 3 (SC); ***SAMEER SHAH VS. UOI & ANR.*** – 2022 (6) TMI 534; ***ANDAMAN TIMBER INDUSTRIES VS. CCE*** – 2016 (15) SCC 785.

**M/s. SHRI MEHUL RASIKBHAI BHIMANI, SHRI PRAMODGIRI PREMGIRI GOSWAMI**  
**2024 (10) TMI 842**  
**CESTAT AHMEDABAD**



### Issue

Rejection of transaction value on the basis of NIDB data alone, without the support of any contemporaneous evidence.

### Decision

Transaction value cannot be rejected merely on the basis of NIDB data in the absence of contemporaneous supporting evidence. Reliance was placed on the Tribunal's decision in ***M/S. ALBANY MOLECULAR RESEARCH HYDERABAD RESEARCH CENTRE PVT. LTD. VS. COMMISSIONER OF CUSTOMS, CHENNAI III COMMISSIONERATE*** - 2024 (10) TMI 465 - CESTAT Chennai, and ***M/S. ATLANTIS TRADING COMPANY VS. COMMISSIONER OF CUSTOMS, TUTICORIN*** - 2023 (11) TMI 178 - CESTAT Chennai.

**M/s. MBM (INDIA) PVT. LIMITED**  
**2024 (10) TMI 840**  
**CESTAT CHENNAI**



### **Issue**

Whether the concession available for lithium-ion cells and other parts for the manufacture of lithium-ion batteries could be claimed when the final product is manufactured as a lithium-ion power bank – Sl. No. 512 of Notification 50/2017-Cus.

### **Decision**

The term 'manufacture' should be understood in the context of Rule 3 of the IGCR, and the entry Sl. No. 512 cannot be understood to mean that the final product manufactured should be a lithium-ion battery. When the importer has used lithium-ion cells and other parts in the manufacture of lithium-ion batteries, which were in turn used in the manufacture of a lithium-ion power bank, the exemption cannot be denied.

**M/S. AMBRANE INDIA PVT. LTD.**  
**2024 (10) TMI 911**  
**CESTAT NEW DELHI**



## Issue

Goods imported for a specific end use, destroyed by fire – liability to duty and penalty.

## Decision

The expression 'for use' means 'intended for use' and not 'actual use.' Duty cannot be demanded on goods lost through fire. Reliance was placed on the SC decision in the ***STATE OF HARYANA VS. DALMIA DADRI CEMENT LTD.*** [1987 (11) TMI 94 - SC / 2004 (178) E.L.T. 13 (SC)], and a Tribunal decision in ***NATIONAL ORGANIC CHEMICAL INDUS. LTD. V. COLLECTOR OF CUSTOMS (IMPORT), MUMBAI***, [2000 (126) E.L.T. 1072].

**M/s. SENNAR PAPER AND BOARDS LTD.  
2024 (10) TMI 909  
CESTAT CHENNAI**





### Issue

Whether Customs officers could determine and give a finding that the certificate issued by an external agency is fraudulent and Proceed against the recipient.

### Decision

It is a settled principle that certificates issued in any proceedings would be valid until the same is declared void by the Competent Authority in this regard. Customs officers are not the designated authority to determine and give a finding that the certificate is fraudulent. Reliance was placed on the following SC decisions: ***TITAN MEDICAL SYSTEMS PVT. LTD. VS. COLLECTOR OF CUSTOMS, NEW DELHI***, 2003 (151) E.L.T. 254 (SC); ***VADILAL CHEMICALS LTD. VS. STATE OF ANDHRA PRADESH***, 2005 (192) E.L.T. 33 (SC); ***AND ZUARI INDUSTRIAL LTD. VS. CCE & CUSTOMS***, 2007 (210) E.L.T. 648 (SC).

**M/S M.K. OVERSEAS (P) LTD.  
2024 (10) TMI 988  
CESTAT ALLAHABAD**



## Issue

Liability for confiscation under Clause (m) of Section 111 ibid, for the wrong claim of an exemption.

## Decision

Claiming the wrong exemption notification is not a condition precedent for the invocation of Clause (m) in Section 111 ibid, for the confiscation of goods.

Reliance was placed on the following Tribunal decisions: ***M/S. SIRTHAI SUPERWARE INDIA LTD. VS. COMMISSIONER OF CUSTOMS, NHAVA SHEVA-III*** [2019 (10) TMI 460 - CESTAT Mumbai] and ***J.K. INDUSTRIES LTD. VS. COMMISSIONER OF CUSTOMS, NEW DELHI*** [1996 (6) TMI 200 - CEGAT, New Delhi].



### **Issue**

Applicability of SCOMET restrictions to exported goods in the event of a doubt about the applicability of coverage under the SCOMET list.

### **Decision**

The question should be referred to DGFT for their opinion before any decision is made on the applicability of SCOMET restrictions. The fact that DGFT issued a licence for subsequent exports of the same goods, without questioning the earlier exports, indicates that the impugned goods did not require a licence under the SCOMET regime. The order is set aside and remanded for referring the question to DGFT.

**M/S. DYNA BIOTECH AND OTHRES**  
**2024 (10) TMI 1072**  
**CESTAT MUMBAI**



## Issue

Whether the declared classification can be changed at the appellate stage by proposing an alternative classification for the imported product?

## Decision

Yes. The appellant is permitted to raise the alternative classification of the goods by adding a ground. Reliance was placed on the SC decision in the case of ***SHRI RAMA MACHINERY CORPORATION (P) LTD. VS. COLLECTOR OF CUSTOMS*** [1991 (11) TMI 55 - Supreme Court], and the Tribunal decisions in ***DIAMOND CEMENTS LTD. VS. COLLECTOR OF CUSTOMS*** [1990 (50) E.L.T. 190 (Tribunal)] and Collector of Central Excise, ***KANPUR VS. WEST GLASS WORKS, FIROZABAD*** [1984 (17) E.L.T. 368 (Tribunal)].

**M/S MICROMAX INFORMATICS LIMITED**  
**2024 (10) TMI 989**  
**CESTAT NEW DELHI**



## Issue

Classification of Pran Lassi Drink (Yogurt Flavoured) – whether under CTH 22029030 or CTH 04039090?

## Decision

Classifiable under CTH 04039090 – Reliance was placed on the Madras High Court in the case of M/S. PARLE AGRO PVT. LTD., REPRESENTED BY ITS MANAGER, **G. MADHAVAN VERSUS UNION OF INDIA, COMMISSIONER OF COMMERCIAL TAXES, GST COUNCIL** [2023 (11) TMI 601 - MADRAS HIGH COURT].

Our comments: The Madras HC decision was on the classification of flavoured milk. The said decision did not 1962 and the specific exclusion for flavoured milk in the HSN ENs under heading 0402. Given the ratio laid down by the SC on the applicability of the HSN ENs, the ruling by the HC can still be questioned. In any case, the Madras HC decision was also against an Advance Ruling under Section 28KA of the Customs Act, 1962 and hence may not have universal application. Therefore, the final word on this question may not have been said.

**M/S. MANPURIA SYNTHETICS**  
**2024 (10) TMI 1355**  
**CESTAT KOLKATA**



## **Issue**

Classification of solar panels equipped with by-pass diodes and not blocking diodes – whether under CTH 8541 or CTH 8501?

## **Decision**

Classifiable under CTH 8541 in the absence of any clear evidence produced by the Revenue that the solar panels were equipped with blocking diodes. CBIC, vide Instruction issued under F. No. 528/90/2016 – STO(TU) dated 06.04.2018, is referred. It was also held that the action of the department to proceed contrary to the clarification provided by CBIC is against the law settled by the Hon'ble Supreme Court in Paper Products Limited, as reported in 1999 (112) E.L.T. 765 (SC).

**M/S SAEL LTD., M/S LOHIA DEVELOPERS INDIA PRIVATE LIMITED, AND M/S  
PRAYATNA DEVELOPERS PVT LTD.**

**2024 (10) TMI 1189  
CESTAT ALLAHABAD**



### Issue

Denial of exemption under Notification No. 23/98-Cus. dated 02.06.1998, seeking an end-use certificate when the notification did not prescribe any such condition — condition imposed through a circular.

### Decision

When the notification entry is unconditional, it is settled law that any condition which is not prescribed in the notification cannot be read into the application of the notification by issuing a Board circular. Reliance was placed on the ***TRIBUNAL DECISION IN ANIL EXPORTS V. CC, KANDAL - 2010*** (261) ELT 870 (Tri. Ahd).

**M/S. NOVELTY EXPORTS**  
**2024 (10) TMI 1554**  
**CESTAT AHMEDABAD**



## **Issue**

Refund of SAD in terms of Notification No. 102/2007-Cus, dated 17.09.2007  
– correctness of reckoning the time limit from the date of payment of duty.

## **Decision**

The matter is no longer res integra, as the Larger Bench of this Tribunal in the case of M/S. AMBEY SALES VERSUS COMMISSIONER OF CUSTOMS, GRFL, SAHNEWAL, LUDHIANA [2024 (6) TMI 257 - CESTAT CHANDIGARH-LB] has decided the issue, and it was held that '*The limitation of one year for filing a claim for refund of additional duty of customs paid on import of goods from the date of payment of additional duty would, therefore, not be applicable.*'

**M/S KRUPA CHATON MANUFACTURING COMPANY PRIVATE LIMITED**  
**2024 (10) TMI 1358**  
**CESTAT AHMEDABAD**





### **Issue**

Classification as 'Naphtha' under Tariff Item 2710 12 90 or as 'Natural Gasoline Liquid (NGL)' under Tariff Item 2710 12 20.

### **Decision**

Revenue failed to discharge the onus of seeking classification under CTH 2710 12 20 as NGL. Further, NGL is also a type of Naphtha. Therefore, classification under CTH 2710 12 90 as Naphtha is approved. Reliance was placed on the Tribunal decision in the matter of SUNRISE TRADERS VS. COMMISSIONER OF CUSTOMS, MUNDRA, 2022 (381) E.L.T. 393 (Tri. Ahmd).

**M/S RELIANCE INDUSTRIES LTD.  
2024 (10) TMI 1555  
CESTAT AHMEDABAD**



### Issue

Addition of royalty to the declared transaction value.

### Decision

Not addable when the royalty being paid was for the license to manufacture the final product and not for imported goods. Reliance was placed on the SC decision in the matter of CC vs. M/s Ferodo India Pvt. Ltd. [2008 (2) TMI 12 - SUPREME COURT].

**M/S. AUTOLIV INDIA PVT. LTD.**  
**2024 (10) TMI 686**  
**CESTAT BANGALORE**



### Issue

Applicable IGST rate on polyester filament cut to size for use in paint brushes – Whether the IGST rate of 12% applicable to synthetic and artificial filament yarns could be claimed.

### Decision

Yarn is different from filament. The 12% IGST cannot be claimed – the applicable IGST will be 18%.

**M/S. SHARAD BRUSHES**  
**2024 (10) TMI 839**  
**CESTAT NEW DELHI**

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