सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद
OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,
चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड़ Ishwar Bhuvan Road
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
दूरभाष क्रमांक Tel. No. 079-26589281
DIN – 20251171MN0000819909

क	फ़ाइल संख्या FILE NO.	S/49-109/CUS/AHD/24-25 S/49-110/CUS/AHD/24-25 S/49-111/CUS/AHD/24-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) :	AHD-CUSTM-000-APP-315 to 317-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	11.11.2025
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	(i) 02/AR/ADC/SRT/2024-25 dt. 30.04.2024 (ii) 03/AR/ADC/SRT/2024-25 dt. 02.05.2024 (iii) 04/AR/ADC/SRT/2024-25 dt. 08.05.2024 All passed by the Additional Commissioner, Customs, Althan, Surat
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	11.11.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Goldi Solar Pvt Ltd., (Formerly known as Goldi Green Technologies Pvt Ltd.) Block No.: J & K1, Pipodara, N.H..-08, Dist.-Surat

1	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के

	अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते है.
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क(	वैगेज़ के रूप में आयातित कोई माल.
(a)	any goods imported on baggage
(ख(	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग (	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
.3	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट,1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेज़ों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस,दण्ड,जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/-(रूपए दो सौ मात्र)या रु.1000/-(रूपए एक हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु.200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु.1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते है

	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-	
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -	
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और ब्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रुपए.	
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;	
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और ब्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रुपए	
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;	
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और ब्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रुपए.	
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees	
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के %10 अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के %10 अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा ।	
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.	
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.	
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.	

Order-In-Appeal

M/s. Goldi Solar Pvt Ltd., (Formerly known as Goldi Green Technologies Pvt Ltd.) Block No.: J & K1, Pipodara, N.H.- 08, District-Surat (hereinafter referred to as "the Appellant") have filed the present appeals against the below mentioned Order-In-Originals (herein after referred to as "the impugned orders") passed by the Additional Commissioner, Customs, Althan, Surat (herein after referred to as "the "adjudicating authority"). The details of the Order-In-Originals and appeals are mentioned below in Table-I.

TABLE - I

S. No.	Details of Order-In-Originals	Date of OIO	Customs Appeals Ref. No.:
1.	02/AR/ADC/SRT/2024-25	30.04.2024	S/49-109/CUS/AHD/24-25
2.	03/AR/ADC/SRT/2024-25	02.05.2024	S/49-110/CUS/AHD/24-25
3.	04/AR/ADC/SRT/2024-25	08.05.2024	S/49-111/CUS/AHD/24-25

2. Facts of the case in all three appeals and the impugned Orders-in-Originals are identical & same, all three appeals are being disposed of together in this common order. The Appellant is engaged in manufacture of "Solar Photovoltaic Modules & Panels". For manufacturing "Solar Photovoltaic Modules & Panels", they import goods "Tinned Copper Interconnector, Multilayered sheet with tedler base, Toughened Glass with low iron content & Transitivity of minimum 90% and above, Ethylene Vinyl Acetate Sheet (EVA) etc". At the time of import, the appellant claimed exemption from payment of Customs Duty under Notification No. 25/1999-Cus dated 28.02.1999 and Notification No. 24/2005-Cus dated 01.03.2005, as amended by Notification No. 132/2006-Cus dated 30.12.2006. The appellant also availed exemption from Countervailing Duty (CVD) under Sr. No. 332 of List 8 specified in Notification No. 12/2012-CE dated 17.03.2012, and exemption from Special Additional Duty (SAD) under Sr. No. 1 of Notification No. 21/2012-Cus dated 21.03.2012. The appellant was having Central Excise Registration No.AAECG1248FEM001 and now have GST Registration No.: 24AAECG1248F1ZO. The appellant has Registration No.:01 of 2012-13 dated 22.01.2013 under the Customs (Import of Goods at concessional rate of duty for manufacture of Excisable goods) Rules, 1996 for import of goods at exemption notifications.

2.1 The appellant was following the procedure prescribed under the Customs (Import of Goods at concessional Rate of duty for manufacture of excisable goods) Rules, 1996. The Appellant had executed necessary Bond for Rs. 1,00,00,000/-on 22.01.2013 at the time of application for Annexure-III which was accepted by the then Assistant Commissioner, Central Excise & Customs, Div-Olpad Surat-II. Thereafter, Annexure III in the month of October-2013, Novemebr-2013 & December-2013 issued by the Assistant Commissioner of Central Excise & Customs, Division Olpad, Surat-II for import of parts meant for the manufacturing of "Solar Photovoltaic Modules & Panels".

2.2 The appellant had imported " Ethylene Vinyl Acetate Sheet (EVA), Junction Box, Multi-layered sheet with tedlar base, Polyester film, Toughened glass with low iron content & transmitivity of min. 90%& above, Solar Ribbon, Aluminium Frames" (herein after referred as Impugned Goods) by availing exemption under sub-section (1) of Section 3 of the said Customs Tariff Act (Counter vailing Duty) under Notification 12/2012(Sr.No.332). As per List 8 and Sr. No.332 of Notification No.12/2012 Central Excise dated 17.03.12, it is noticed that the following goods are exempted from duty-

(1) Flat plate solar Collector (2) Black continuously plated solar selective coating sheets (in cut length or in coil) and fins and tubes Concentrating and pipe type solar collector (4) Solar water heater and system (6) Solar air heating system (7) Solar Low pressure steam system (8) Solar stills and desalination system (9) Solar pump based on solar thermal and solar photovoltaic conversion (10) Solar power generating system (11) Solar photovoltaic module and panel for water pumping and other applications (12) Solar crop drier and system (13) Wind operated electricity generator, its components and parts thereof including rotor and wind turbine controller (14) Water pumping wind mill, wind acro generator and battery charger (15) Bio-gas plant and bio-gas engine (16) Agricultural, forestry, agro industrial, industrial, municipal and urban waste conversion device producing energy (17) Equipment for utilizing ocean waves energy (18) Solar lantern (19) Ocean thermal energy conversion system (20) Solar photovoltaic cell (21) Parts consumed within the factory of production of such parts for the manufacture of goods specified at Sr. Nos. 1 to 20 provided said goods are used in manufacturer of non-conventional energy device or system.

2.3 The appellant imported the impugned goods as per Sr. No. 21 of list 8 & Sr. No. 332 of the Notification No.12/2012 Central Excise dated 17.03.12 and it was noticed that the said exemption from Central Excise duty is available only in such cases when parts procured are used/consumed in the manufacture of parts which are further used in the non-conventional energy device or system. Therefore, it is evident that no exemption

from Central Excise Duty is available "if parts are procured from outside the factory and directly used/consumed in the manufacture of non-conventional energy device/system", which is the issue in the instant case. The appellant had imported the parts viz. impugned goods as per their specification and requirement and no further process is conducted/done in their factory and directly utilized in the manufacturing of "Solar Photovoltaic Modules & Panels" by way of affixing it on the Solar Photovoltaic Modules & Panels. Therefore, under the circumstances, no further manufacture of parts had been done on the imported products/parts and directly used in the manufacturing of Solar Modules & Panels, the benefit of exemption from Additional Duty of Customs (CVD) @ 12% specified under sub-section (1) of section 3 of the said Customs Tariff Act, 1975 is not available to the appellant in terms of provisions mentioned at Sr.No.21 of list 8 prescribed at Sr.No.332 of Notification No. 12/2012-CE dated 17.03.2012.

2.4 The appellant also availed exemption of Special Additional Duty of Customs (SAD) specified under Sub section (5) of section 3 of the said Customs Tariff Act, 1975 under Notification no.21/2012-Cus dated 17.03.2012 (Sr.No.: 01). In the instant matter, as the exemption form payment of CVD is not available, the benefit of exemption from SAD @4% is also denied.

2.5 Thereafter, three Show Cause Notices dated 09.10.2014, 05.11.2014 and 16.12.2014 were issued to the appellant. The adjudicating authority vide Order-In-Originals No.: 02/AR/ADC/SRT/2024-25 dated 30.04.2024, 03/AR/ADC/SRT/2024-25 dated 02.05.2024 and 04/AR/ADC/SRT/2024-25 dated 08.05.2024 respectively has confirmed the charges proposed/levelled in the said SCNs. The impugned orders have held as under:

(i) Confirmation of demand of the Additional duty of Customs (CVD) leviable thereon under sub-section(1) of section 3 of the said Customs Tariff Act, 1962 on the subject goods from the appellant under Section 28(1) of the Customs Act, 1962.

(ii) Confirmation of demand of the Education Cess @ 2% and Secondary & Higher Education Cess @ 1% from the appellant under Section 28(1) of the Customs Act, 1962.

(iii) Confirmation of demand of the Special Additional Duty (SAD) @4% from the appellant Section 28(1) of the Customs Act, 1962.

(iv) Confirmation of demand of statutory interest and order its recovery from the appellant on the amount confirmed at (i), (ii) & (iii) above under section 28AA of the Customs Act, 1962.

(v) Confirmation of confiscation of subject imported goods procured duty free under bond and not used for the intended purpose under section 111(o) of the Customs Act, 1962 and impose a redemption fine of Rs. 14,41,692/- in lieu of confiscation upon from the appellant under Section 125 of the Customs Act, 1962"

(vi) Confirmation of impose of penalty under Section 112(a) of the Customs Act, 1962 on the appellant

3. Being aggrieved with the impugned orders passed by the adjudicating authority, the Appellant have filed the present appeals. The Appellant has, inter alia, raised identical grounds and submissions in all the three appeals and has filed detailed submissions in the Appeal Memorandum dated 03.07.2024 in support of their claims, the same are summarized below:"

- *That the Respondent was bound to follow the judgement of the Hon'ble Commissioner (Appeals) which is identical to the facts in the present case by following the principle of judicial discipline.*

  The Appellant in their letter dated 12.01.2016 have submitted that on an identical issue the Appellant was issued a Show Cause Notice bearing No. V(Ch.85)3-32/Dem-CVD/Olpad/ADC/2013-14 dated 13.01.2014 the prior period 24.01.2013 to 30.09.2013, by the Joint Commissioner, Central Excise, Customs & Service Tax, Surat-II. In the said SCN dated 13.01.2014, the Joint Commissioner, Surat-II, had purported to deny the exemption benefit to the Appellant on the ground that the said exemption from Central Excise duty in Notification 12/2012-CE dated 17.03.2012 is available only in such cases when parts procured are used / consumed in the manufacture of parts which are further used in the non-conventional energy device or system. Therefore, it is held that no exemption from central excise duty is available if parts are procured outside the factory and directly used / consumed in the manufacture of non-conventional energy device or system". Hence, exemption benefit is available with the Appellant.

  Accordingly, an Order-In-Original No.65/JC-OP/Dem/ Olpad/2014 dated 07.10.2014 was issued by the Joint Commissioner, Central Excise, Customs & Service Tax, Surat-II confirming the charges levied in the said SCN dated 13.01.2014. Being aggrieved by the OIO dated 07.10.2014, the Appellant preferred an appeal before the Commissioner (Appeals), Varodara, Appeals-II.

  The Commissioner (Appeals), Varodara, Appeals-II, vide Order-In-Appeal No. CCESA-VAD(APP-II)/SSP-124/2014-15 dated 31.03.2015 set aside the OIO dated 07.10.2014 on the following grounds –

  That all imported parts or components imported by the appellant further undergoes various processes and that various parts components are manufactured out of it in the factory of the Appellant / Manufacturer, before it is actively used in the manufacturer of its final product that is solar Photovolatic modules and panels. This is very clear and evident from the

chartered engineer , various pictures and manufacture process charts flow diagrams submitted by the appellant. These facts and processes and also use of imported parts components in the manufacture of folder paths and ultimately in is used in the manufacture of solar panels and modules in its factory was not fully and correctly appreciated in recent proceedings before passing the impugned order.

(ii) Interpretation of the order does not seem to be logical and harmonious to the interpretation of the exemption notification as it leads to absurd situation. It is well settled in plethora of cases by the judicial courts which does not allow the interpretation of exemption notification or entry thereof, as to make it absurd situation or inoperative has been done in subject order.

(iii) That Department could not by issuing Circular subsequent to the notification add a new condition to the notification thereby either restricting the scope of exemption notification or whittle it down.

(iv) Reliance is placed on Supreme Court judgement in case of M/s. Thermax Pvt. Ltd. V/s. Collector of Customs, Bombay 1992 08 LCX 002, wherein it was held that the benefit of exemption should be granted, wherever intended use of material can be established by the input or by other evidence as prescribed by the Board vide its letter F. No. 332/65/86 TRU dated 27.07.1987.

(v) When the Appellant contended in the replied to SCN that the imported goods are required for further manufacturing parts, which would be used in its factory for manufacture of its final products, the adjudicating authority is legally duty bound to legally deal with it however in the subject matter, the adjudicating authority has skirted the issue without giving any evidence of proof reasons or logic to the contrary that there is a failure on the part of the adjudicating authority discharge about burden in its impugned order.

(vi) That the proper office of customs of JNCH, has assessed the imported goods for levy custom duty if any, and allowed the benefit of notification 25/1999 (18a), 12/2012 (332) for CVD and 21/2012(1) for SAD by issuing an out of charge order. That there is no report or record that competent customers have reviewed the assessment made on such bill of entry nor an appeal has been filed against it or any less charge demand notices are issued to the appellant or any action for such assessment is initiated by the proper officer of JNCH.

(vii) The divisional Assistant Commissioner of Central Excise in charge of the Appellant had sent suitable references vide its letters dated 26.09.2013 in furtherance of inquiry questioning the admissibility of Sr. No. 21 of list 8 and Sl. No. 332 of Notification No. 12/2012 CE as amended to all custom authorities in charge of the four manufacturers. In response to this the Deputy Commissioner of Raigad and Hyderabad vide its letter dated 27.02.2014 stated that the appellant is rightly eligible for the benefit of Notification No. 12/2012 dated 17.03.2012 on the subject goods. Similar reply was received from Assistant Commissioner of Hyderabad wherein it had held that the benefit of CVD exemption under the notification No. 12/2012 CE and SAD under 21/2012-CE has been rightly eligible to the appellant.

(viii) No Show Cause Notice has been issued by the jurisdictional customs officer to demand differential duty of customs duty.

From the above Order-In-Appeal dated 31.03.2015 it is clear that the impugned goods are eligible for exemption from payment of CVD and SAD.

➢ *That the impugned order dated 02.05.2023 has brushed aside the above decision of the Hon'ble Commissioner (Appeals) by stating that since the Department's appeal against the said Order-In-Appeal dated 31.03.2015 was dismissed by the Hon'ble CESTAT, due to monetary limit, such orders shall not be taken as having precedent value, as per CBIC Instruction No. 390/Misc./163/2010-JC dated 20.10.2010. Accordingly, the said decision dated 31.03.2015 of the Hon'ble Commissioner (Appeals) have no precedential value.*

In this regard, the Appellant submits that the decision of the Central Government to not challenge or continue litigation due to its policy decision and that the said order / judgement does not have persuasive value, is within its wisdom and reasons, and is not binding on the Court. Until a judgement / order has been passed by the jurisdictional Court or higher authority, it shall have binding value to the lower authorities, unless disagreed or referred to Larger Bench. The aforesaid proposition has been upheld by the Hon'ble High Court of Karnataka in case of CCE & ST, Mangalore vs. Mangalore Refinery & Petrochemical Ltd. 2016 (42) S.T.R. 6 (Kar.) wherein it was held that –

> *"**7.** However, we are surprised to notice the argument advanced by learned counsel for the appellant that in view of the policy decision taken by the Central Government that for the reasons of monetary value the judgment of M/s. Stanzen Toyotetsu India (P) Ltd. (supra) is not challenged thus, the said judgment has no value as a precedent in the subsequent cases. This argument is totally misconceived. The decision of the Central Government to challenge a judgment or not is within its wisdom and reason. Such decision is not binding on the Courts. On the other hand, the judgment passed by the co-ordinate Bench of this Court has binding value and this Court is bound by the said judgment, unless it is disagreed and referred to a Larger Bench.*
>
> ***8.** We do not find any reason to deviate from the Division Bench judgment of this Court in M/s. Stanzen Toyotetsu India (P) Ltd. (supra).*
>
> ***9.** Accordingly, we confirm the order passed by the Tribunal as no substantial questions of law arises for our consideration. The appeal stands dismissed as devoid of merits."*

In view of the above, even though the Board Instruction dated 20.10.2010 has held that the said decision shall not have precedential value where the Department has withdrawn the appeal due to monetary limit, it is the wisdom and reasons of the Department and shall not have binding nature. Hence, the order of the Commissioner (Appeals) dated 31.05.2015 is binding on the lower authorities and have persuasive effect.

➢ *That notwithstanding the above, even in case where the aforesaid judgement does note have persuasive value, the said OIA dated 31.03.2015 shall be followed by the lower authorities on account of principle of judicial discipline.*

The law is well settled by the judgment of the Hon'ble Supreme Court in Union of India vs. Kamalakshi Finance Corporation Ltd. [AIR 1992 SC 711], and Assistant Collector of Central Excise, Chandan Nagar Versus Dunlop India Limited and Other [1984 (11) TMI 63 - Supreme Court] that the lower authorities are required to follow the higher authority's decision. The law is further well settled that any action,

adjudication or appellate order, contrary to the judgment of the higher court, is without the authority of law.

- *That in the instant case, the Appellate Authority in its Order dated 31.03.2015, have examined the facts and process of manufacture of non-conventional goods of the Appellant and have held that the imported goods are further processed before they are consumed for manufacture of Solar Photovolatic modules & panels and that the exemption of CVD and SAD has been rightly granted to the Appellant. Therefore, the Order passed by the Appellate Authority is to be unreservedly followed by the Revenue. Accordingly, the Impugned order is without the authority of law and without jurisdiction and is liable to be set aside.*

- *That the subject imported goods are subjected to further processing before being consumed for manufacture of non-conventional goods and hence exemption from payment of CVD is applicable to the Appellant.*
  As per the impugned order dated 30.04.2024, the imported goods shall be exempt from payment of CVD under Sl. No. 21 of List 8 of Sl. No. 332 of Notification No. 12/2012-CE dated 28.02.2012, only when the imported goods or parts are consumed within the factory of production of such parts for the manufacturer of the goods specified at Sr. no. 1 to 20. The impugned order 02.05.2024 has held that the imported goods are directly used for manufacture goods i.e. Solar Photovolatic Modules & Panels without any further processing and hence good not be covered exemption notification.

  As submitted in the facts above, in the course of manufacture of the 'Solar Photovoltaic Modules & Panels,' the Appellant, necessitates a variety of twenty-two distinct raw materials and components. Of these, ten are procured through either importation or domestic acquisition. The Appellant engages in the importation of certain parts, namely 'Tinned Copper Interconnector, Multilayered sheet with tedlar base, Toughened Glass with low iron content & Transitivity of minimum 90% and above, Ethylene Vinyl Acetate Sheet (EVA), Edge Sealing Tape, Silicone in Primary Form,' among others, for the express purpose of manufacturing 'Solar Photovoltaic Modules & Panels' (hereafter designated as 'Impugned Goods').

  The Appellant uses both manual and automated production methodologies to manufacture its solar modules and panels. The certified attestations from a Chartered Engineer, inclusive of detailed flow charts, diagrams, and pictures evidence the manufacturing utilized by the Appellant for imported and domestically processed obtained raw materials.

  Further, upon review of various raw materials or components utilized within both manual and automated production frameworks, it becomes unequivocally apparent that all imported parts or components are subjected to a series of transformative processes. These processes yield a multitude of parts and components within the Appellant's manufacturing facility, all of which are integral to the assembly of the final products, namely, the solar modules and panels. This is substantiated by the Chartered Engineer's certification, along with the illustrative photographs and process charts/flow diagrams, which unambiguously depict the sequential utilization of parts/components, the nomenclature of processes, and the machinery employed.

  That these facts were not considered by the Respondent while passing the impugned order dated 30.04.2024. Infact, in the prior period as well, the Hon'ble

Commissioner (Appeals) have itself confirmed these facts that the imported goods further undergo processing before being consumed for manufacture of solar modules and panels and accordingly satisfy the condition prescribed under Notification No. 12/2012-CE.

- *That the Appellant submits that it makes an application to the Assistant Commissioner of Central Excise Olpad Division under Rule 2 of Customs IGCRD, 1996 with full facts regard manufacturing activity of Solar Modules and Solar Panels. The Divisional Assistant Commissioner before granting Registration under Rule 3 and accepting Bond, got the documents and eligibility verified from the Range Superintendent. The Range Superintendent and the Inspector visited factory of the Appellant and after detailed verification submitted a report to the Division Office recommending the grant of registration and issue of the Annexure-III. Thereafter, the Divisional Assistant Commissioner issued Registration to Appellant under the Central Act, 1944 and the Customs (Import of goods at concessional rate of duty for manufacture of excisable goods) Rules, 1996. Ld. Assistant Commissioner accepted Appellant's bond and issued Annexure-III from time to time. Based on the Annexure III certificates the Customs Department assessed and allowed clearance of the goods by granting Out of Charge Certificate. The assessment at the port was First Check.*

- *That it is not the case the imported goods were not duly received in the factory or not used for the intended purpose viz. in the manufacture of Solar Modules and Solar Panels. There had not been any change in the manufacturing activity right from the stage of application for registration for granting the benefit.*
  Further, the Appellant submits that the Assistant Commissioner of Olpad Division who is the Jurisdictional Assistant Commissioner of the Appellant had made enquiries from the customs formations from where the Appellant had procured the subject imported goods and vide letter dated 26.09.2013 made suitable references to the customs officers questioning the admissibility of exemption in Sl. No. 21 of List 8 and Sr. No. 332 of Notification No. 12/2012-CE dated 17.03.2012. The Deputy Commissioner of Customs of Raigad and Hyderabad at the port of import did not agree with the reports sent by the Assistant Commissioner of Central Excise, Olpad Division and allowed duty free clearance under Annexure III certificate. The Deputy Commissioner of Customs of Arshiya FTZ/SEZ, vide its letter dated 27.02.2014 had reported to the Assistant Commissioner of Central Excise, Olpad Division that –

> *"02. The matter was examined and a letter in this regard was also issued to the AC/ Central Ex., Hyderabad 'B' Division as the Annexure-III was countersigned by them. AC / Central Excise, Hyderabad - B' Division vide their letter F. No. V/05/52/2013 Bonds dated 13.01.2014 (copy enclosed) have affirmed that the benefit of Notification No. 12/2012 dated 17.03.2012 is rightly eligible on the subject goods as they fall at Sr - No. 21 (List 8) - the parts required for manufacture of goods listed.; at Sr.-No., J. to 20 of List 8. It is part consumed within the factory of production of such parts for the manufacture of goods specified at Sr. No. 1 to 20.*
>
> *03. The List 8 of the said Notification (12/ 2012) reveals that the benefit of CVD exemption is available on all goods, and their parts listed in Sr. No. 1 to 21. Hence, CVD exemption on goods w.r.t. B/E No. 0005238 dated 27. 06.2013 is available. "*

A similar reply was received from the Assistant Commissioner, Division-B of Hyderabad-IV, Commissionerate, vide dated 13.01.2014 to the Assistant Commissioner of Central Excise, wherein it was held that –

> *"2. in this regard, it is to submit that firstly M/s. Photon Energy Systems Ltd are manufacturers of solar photovoltaic module and panels (So No. 11) and not solar photovoltaic cell (Sl. No. 20), secondly S. No. 21 of list 8 to Sl. No. 332 of Notification No. 12/2012 QE dt, 17.03.2012 covers parts consumed with in the factory of products of such parts for manufacture of goods specified at Sl. No. 1 to 20 of the list, implies that parts procured for manufacture of goods specified at Sl No. 1 to 20.; Had this not been the case, this would not have figured as S.No. 21, because similar provision is ' available ' Under Notification No, . 67/95 dt. 16.03.1995 for captive consumption of capital goods and specified inputs if captively consumed with in the factory of production in or relation to the manufacture of final products. Since, the parts required for manufacture of S. No. 1 to 20 of the list are not readily available of manufactured domestically, this facility is extended under Sr. no. 21 for manufacture of goods listed in S. No. 1 to 20 of the list. Hence -the benefit- of CVD exemption under Notification No. 12/2012 CE- is rightly eligible.*
>
> *3. Further, on a perusal of Sl.No.21 of list 8 applicable to Sl.No.332 Notfn.No.12/12-CE dt. 17.03.2012 as amended, which reads as follows:*
>
> *" Parts consumed within the factory of production of such parts for the .. manufacture of goods specified at Sl. Nd. 1 to 20",*
>
> *It appears that Sl. No.21 is applicable to parts procured indigenously for the manufacture of parts in the factory of production which are again used in the procured it should be used in the manufacture of another part which should again be used in the manufacture of part for e.g. if a manufacturer wishes to-procure a part called Teddlar Back sheet, it could be used in the manufacture of Solar Photovoltaic Cell which is again used in the 'manufacture of Solar Photovoltaic Module which may contain the Solar Photo voltaic Cell along with other parts. The close reading of the list No. 8 of the said notification reveals that all the goods in that list are exempted and the parts are also exempted and all the parts to the parts are also exempted. Further, there are no . enclosures enclosed to above referred letter in order to peruse the contents of the said enclosures. Hence, the same may please be sent to this office for necessary action."*

From the above, it is evident that the concerned jurisdictional customs officers were satisfied that the impugned imported goods were further processed for manufacture of parts and thereafter were consumed for manufacture of solar photovoltaic modules and panels. Accordingly, the impugned goods fall in Sl. No. 21of List 8 of the exemption notification.

- *That the case laws relied upon by the impugned order dated 30.04.2024 wherein the exemption benefit is denied since the parts are not consumed in the factory are not applicable in the present case as the impugned order has not appreciated the correct facts and have wrongly applied the ratio of the said decisions on the basis of incorrect facts. In view of the submissions made hereinabove, the Appellant*

submits that the impugned goods categorically fall under Sl. No. 21 of List 8 in Sr. No. 332 to Notification No. 12/2012-CE dated 17.03.2012 and hence rightfully availed the exemption from payment of CVD.

- *Notwithstanding and without prejudice to the above submission, assuming without admitting that the goods are directly assembled for manufacture of solar photovoltaic modules and panels without any further process, the Appellant shall still be eligible for the benefit of exemption notification from payment of CVD.*
  The impugned order has denied the benefit of Exemption Notification No. 12/2012-CE from payment of CVD on the ground that the Exemption Notification has to be read strictly and accordingly, the exemption from CVD under "Sr. No.21 of List 8 and S.no.332 of the Notification No.12/2012 Central Excise dated 17.03.2012 is available only in such cases "when parts procured are used/ consumed in the manufacture of parts which are further used in the non-conventional energy device or system". Therefore, no exemption from Central Excise Duty is available "if parts are procured from outside the factory and directly used/ consumed in the manufacture of non-conventional energy device/ system".

- *The Appellant submits that while trying to understand the language used by an exemption notification, the intent, object and the purpose for which the exemption is given by the Legislature. In the present case, the purpose and spirit behind the Exemption Notification NO. 12/2012-CE given by the Legislature for manufacture of non-conventional energy sources such as "Solar Photovoltaic modules & panels" for the Central Government is to make the said item economical for the common people and accordingly granted exemption from various duties. The Solar Cells and Solar Modules imported into India attract Nil rate of duty and thus were entering domestic market with tax incidence. On the other hand, the domestic manufacturer of these items in spite of exemption of finished products was suffering various tax incidences as there was no exemption either on imported inputs or domestically procured inputs. As the final product is exempt, the manufacturers cannot avail Cenvat Credit of duties paid on inputs/ parts, therefore, to provide a level playing field to the domestic manufacturing of non-conventional energy devices including solar items, the Government incorporated Entry 332 of Notification No.12/2012-CE dated 17.03.2012. The S.No.21 of the list 8 of provided for exemptions to inputs/ parts used in the manufacture of solar devices and equipment.*

- *That it is a settled law that while interpreting an Exemption Notification the purpose and spirit of the Exemption Notification needs to be looked at. Reliance is placed on following judicial decision –*
  (i) AIDEK TOURISM SERVICES PVT. LTD. VERSUS COMMISSIONER OF CUSTOMS, NEW DELHI 2015 (318) E.L.T. 3 (SC),
  (ii) Thermax Private Limited v. Collector of Customs (Bombay), New Customs House - (1992) 4 SCC 440 = 1992 (61) E.L.T. 352 (S.C.)
  (iii) Lohia Sheet Products v. Commissioner — 2008 (224) E.L.T. 349 (S.C.),
  (iv) Bharat Heavy Electricals Ltd. vs. CCE, Bhopal 2017 (49) S.T.R. 81 (Tri. - Del.)

- *That in view of the above, the Appellant submits that the mere fact that the goods were imported and consumed directly in the factory where the solar modules and panels are manufactures instead of the imported goods being consumed in the factory where such parts would be further consumed for manufacture of solar modules & panels, would not make any difference; that the intention of the*

Legislature was to grant exemption under the notification so as to prevent duty being paid at any stage.

- *That without prejudice to the above, the Appellant submits that the interpretation adopted by the Respondent is not as per the literal interpretation of the provisions of Entry 332 of Notification No.12/2012-CE dated 17.03.2012 and table 8 of the Notification. The term consumption within the factory of production, in case of imported part would only mean that imported goods are required to be used in the factory belonging to the importer.*

- *That it is undisputed fact that, Appellant is using the goods imported for the manufacture of the Solar Panel and Solar Modules in its factory. The Hon'ble Apex Court had dealt with the issue relating to benefit of exemption provided to "goods used in the factory of manufacture" to "imported goods" and has held that benefit is available to the imported goods if they are used by the importer in its factory of production. It is a well-settled principle of law that where literal meaning leads to an anomaly and absurdity, it should be avoided. When the goods are imported evidently, the same would not be manufactured in the same factory. It would, therefore, be impossible to apply the provisions of Section 3(1) of the Act vis-a-vis the notification issued in the case of imported goods. Reliance is placed on below mentioned case laws:*
  - *(i) Commissioner of Cus (PRV), Amritsar vs. Malwa Industries Ltd. [2009 (235) E.L.T. 214 (S.C.),*
  - *(ii) Lohia Sheet Products v. Commr. of Customs, New Delhi [2008 (224) E.L.T. 349 (S.C.)],*
  - *(iii) Tata Oil Mills Co. Ltd. v. Collector of Central Excise [(1989) 4 SCC 541] ,*
  - *(iv) Solar Pesticides Pvt. Ltd. Vs. Union of India [1992 (57) E.L.T. 201 (Bom.)],*
  - *(v) Edelweiss Metals Ltd. vs. CCE, Ahmedabad 2019 (366) E.L.T. 539 (Tri. - Ahmd.),*

  Thus, the exemption notification cannot be read strictly as interpreted by the impugned order dated 30.04.2024 as it will result to absurd result and would defeat the purpose and intent of the Statute.

- *That to further strengthen the case of the Appellant, it is submitted that prior to issue of Notification No.12/2012-C.E., "Solar Photovoltaic Modules and Panels" were exempted vide Serial No.10 of the table annexed with Notification No.205/99-C.E. and Serial No.18 covered "parts consumed within factory of production of such parts for the manufacture of goods covered at S.No. I to 17 above.*
  Similar issue in respect of Additional Duty of Customs (CVD) has been decided by the Hon'ble CESTAT, South Zonal Bench, Chennai in the case of ***Solkar Industries Ltd. Vs. Commissioner of Customs, Chennai*** *[2007(219) E.L.T. 732 (Tri-Chennai)] wherein the Hon'ble Tribunal has held:*

"After giving careful consideration to the submissions, we find that the Notification, in terms of Sl. No. 18 therein, granted full exemption from payment of duty of excise on "parts consumed within the factory of production of such parts for the manufacture of goods specified at Sl. Nos. 1 to 17 above". Learned Commissioner (Appeals) observed that "the goods imported are consumed/ used in the production not of parts but of the finished goods viz. solar photovoltaic module". Obviously "parts consumed within the factory of production of such parts" were misunderstood as "parts

consumed in the production of such parts". To consume something in its own manufacture does not make sense. Consequently, the view taken by the lower authorities cannot be accepted as logical. Such a view is not justice-oriented either as it is inconsistent with legislative intent. A provision such as Sl, No. 18 of the Table annexed to Notification No. 205/ 88-CE, apparently suffering from the vice of having been ill- drafted, needs to be construed with reference to the legislative intent. As rightly pointed out by the appellants' representative, the Notification intended to make non-conventional energy devices such as "Solar photovoltaic modules and panels" cheaper to the common people by exempting parts thereof manufactured and captively consumed in a factory in India from payment of duty of excise as also by exempting identical parts from countervailing duty when imported into India. Hence Sl. No. 18 of the Table annexed to the Notification should be construed as "parts consumed in the manufacture of goods specified at Sl. Nos. 1 to 17 above". In this view of the matter, the benefit of the Notification is available to the appellants."

The Appellant submits that the condition in the present notification is same as was in the earlier notification and is squarely applicable to the case of the Appellant.

- *That the Appellant further submits that, the term consumption within the factory of production, in case of imported part would only mean that imported goods are required to be used in the factory belonging to the importer. The department is not disputing the fact that the Appellant is using the goods imported for the manufacture of the Solar Panel and Solar Modules in its factory.*

  In view of the above, the Appellant submit that it would not be correct to deny the benefit of exemption notification to imported goods only because the procedural condition in the notification is not satisfied by the imported goods. It has therefore, been decided that wherever the intended use of the material can be established by the importer who may be the manufacturer of chemicals or from other evidence, the benefit of exemption under the exemption notification should not be denied to imported goods only because the procedural condition of following Chapter X procedure is not complied with. Hence, in view of the above, the Appellant submits that term consumption within the factory of production, in case of imported part would only mean that imported goods are required to be used in the factory belonging to the importer, and the impugned order dated 30.04.2024 cannot defeat the purpose of the Exemption Notification by interpreting the said exemption notification literally. Thus, exemption notification in the present case should be interpreted iberally and that the Appellant has rightfully availed the exemption from payment of CVD.

- *That the appellant submitted in the matter the Impugned Goods are not liable for confiscation, no CVD can be levied where no excise duty is levied, that the Impugned Order is passed without Jurisdiction, the Appellant is entitled to benefit of exemption notification from payment of SAD, Cess , the Appellant submitted that they are not liable for imposition of any penalty either under Section 112(a) and no redemption fine can be imposed under Customs Act, 1962.*

PERSONAL HEARING:

4. Personal hearing in the matter was held on 03.07.2025 in virtual mode for all three above mentioned appeals. Shri Sanjeev Nair, Advocate and Shri Rishin Gala, Chartered Accountant, appeared for hearing on behalf of the Appellant. They reiterated the submissions made in the appeal memorandums and submitted additional submission also.

4.1 During the personal hearing, they submitted that the Respondent was bound to follow the decision of the Ld. Commissioner (Appeals), Vadodara, in an identical matter pertaining to the earlier period 24.01.2013 to 30.09.2013, where exemption under Notification No. 12/2012-CE dated 28.02.2012 was initially denied but subsequently allowed vide Order-in-Appeal dated 31.03.2015. In that case, the Commissioner (Appeals) had categorically held that the imported goods underwent further processing before being used in the manufacture of solar modules, and that denial of exemption was based on an illogical and narrow interpretation. The Ld. Commissioner (Appeals) had further observed that the assessments at the ports of import allowed the exemption and that no appeal had been preferred by the Department. Reliance was also placed on the Hon'ble Supreme Court's decision in Thermax Pvt. Ltd. v. Collector of Customs [(1992) 4 SCC 440], wherein it was held that the intended use of inputs can be established through supporting documents such as manufacturing flow charts and Chartered Engineer's certificates.

4.2 Shri Nair further submitted that despite these clear and binding appellate findings, the Respondent disregarded the earlier Order-in-Appeal by relying upon CBIC Instruction dated 20.10.2010, which states that unchallenged orders due to monetary limits lack precedential value. He contended that this reasoning is legally untenable, as judicial orders remain binding unless reversed by a higher authority. He referred to the judgment of the Hon'ble Karnataka High Court in CCE v. Mangalore Refinery and Petrochemicals Ltd. [2016 (42) S.T.R. 6 (Kar.)] to submit that even decisions not appealed on account of monetary limits continue to hold precedential value. Further reliance was placed on Union of India v. Kamalakshi Finance Corporation Ltd. [AIR 1992 SC 711] and Assistant Collector of Central Excise v. Dunlop India Ltd. [1984 (11) TMI 63-SC], to emphasize that judicial discipline mandates strict adherence to orders of appellate authorities by subordinate officers. It was, therefore, argued that the Respondent had no jurisdiction to re-adjudicate the issue contrary to the binding appellate order, rendering the impugned order without authority of law.

4.3 The Ld. Counsel further submitted that the impugned goods underwent further processing before being used in the manufacture of solar photovoltaic modules and panels. He explained that imported components such as EVA sheets, tinned copper interconnectors, and toughened glass undergo various manual and automated processes in the Appellant's factory, transforming them into intermediate components that are then consumed in the manufacture of solar modules. This factual position, according to him, stood corroborated through Chartered Engineer's certificates, manufacturing flow charts, and factory inspection reports. He highlighted that the Appellant was duly registered under the Central Excise Act and IGCRD Rules, 1996, and that the Customs authorities at the ports of import after detailed verification under the First Check procedure had consistently extended exemption under Notification No. 12/2012-CE. These findings were further confirmed by the jurisdictional Deputy Commissioners at Raigad and Hyderabad, thereby affirming the eligibility of the Appellant for the exemption.

4.4 Without prejudice, Shri Nair submitted that even assuming the imported parts were directly assembled into solar modules without any intermediate processing, the exemption would still apply, considering the object and legislative intent of the notification. He argued that the purpose of the notification was to promote renewable energy manufacturing by eliminating tax incidence on inputs and maintaining parity with imported finished goods, which attracted nil duty. In support, reliance was placed on the decisions of the Hon'ble Supreme Court in Aidek Tourism Services Pvt. Ltd. v. Commissioner of Customs, New Delhi [2015 (318) E.L.T. 3 (SC)]. Thermax Pvt. Ltd. v. Collector of Customs, Bombay [1992 (61) E.L.T. 352 (S.C.)], and Lohia Sheet Products v. CCE [2008 (224) E.L.T. 349 (S.C.)], wherein it was held that exemption notifications must be interpreted liberally to advance their objective. The Ld. Counsel also referred to the decision of the CESTAT, Chennai in Solkar Industries Ltd. v. CC, Crennai [2007 (219) E.L.T. 732], which clarified that the phrase "parts consumed within the factory of production of such parts" should be construed as "parts consumed in the manufacture of specified goods," and that the legislative intent was to make solar photovoltaic modules more affordable.

4.5 He also submitted that no countervailing duty (CVD) could be levied where there is no corresponding excise duty on the same goods, relying upon CBEC Instruction F. No. 332/65/86-TRU dated 27.07.1987, which clarified that additional (CVD) duty cannot be imposed in such cases. Accordingly, since the exemption under Notification No. 12/2012-CE applied to CVD, it must also extend to Special Additional Duty (SAD).

4.6 In conclusion, Shri Sanjeev Nair argued that the Appellant had duly fulfilled all statutory conditions and had utilized the imported goods solely for the manufacture of solar photovoltaic modules and panels. Consequently, the goods were not liable to confiscation, and the Appellant was not liable to any redemption fine or penalty. The denial of exemption and consequential imposition of duties and penalties were therefore unjustified and liable to be set aside. and they reiterated their submissions made at the time of filling of appeal.

DISCUSSION & FINDINGS:

5. Before going into the merits of the case, I find that from the Form C.A.-1 of the above appeals that there is delay of 10 days, 1 day and 2 days in their respective appeals. Therefore, it is observed that the present appeal have not been filed within the statutory time limit of 60 days as prescribed under Section 128(1) of the Customs Act, 1962. The appellant, vide three letters all dated 10.07.2024, filed application for condonation of delay in filing appeals and requested the authority to condone the delay in filing the appeal and explained the reasons for the late submission. In light of the provisions of law and considering the submissions of the Appellant to condone the delay in filing appeal and also considering the fact that the appeal has been filed within a further period of 30 days, I allow the condonation of delay in filing the appeals, taking a lenient view in the interest of justice in the present appeal.

5.1 The Appellant has submitted copies of the T.R.6 Challan No. 01/24-25, 02/24-25 and 03/24-25 all dated 05.07.2024 for Rs. 1,82,242/, Rs. 3,52,316/- and Rs. 2,84,450/- respectively towards payment of pre-deposit calculated @ 7.5% of the disputed amount of Customs duty under the provisions of Section 129E of the Customs Act, 1962. As the appeal has been filed within the stipulated time-limit and complies with the requirement of Section 129E of the Customs Act, 1962, the appeals has been admitted and being taken up for disposal on merits.

5.2 Further, letter dt. 17/09/2024 was written, accompanying the copies of appeals filed by the appellant to the ADC, Customs, Althan, Surat to furnish various information / details, however, till date no reply in the matter is received. Therefore, in the absence of any reply in the matter, the submission of the appellant regarding the date of receipt of the impugned order is accepted.

6. I have carefully gone through the appeal memorandums as well as records of the case and the submission made on behalf of the Appellant during the course of

hearing. The issue to be decided in the present appeal is whether the impugned order passed by the adjudicating authority, holding that the imported goods are not eligible for exemption from CVD under Notification No. 12/2012-CE dated 17.03.2012 and from SAD under Notification No. 21/2012-Cus dated 17.03.2012, and thereby confirming the demand of duty along with interest, ordering confiscation of the imported goods under Section 111(o) of the Customs Act, 1962, and imposing penalty upon the appellant under Section 112(a) of the said Act, is legal and proper or otherwise.

6.1 I find that the appellant has imported various inputs and parts such as Tinned Copper Interconnector, Multilayered Sheet with Tedler Base, Toughened Glass with low iron content, Ethylene Vinyl Acetate (EVA) Sheet, and Junction Box, for use in the manufacture of Solar Photovoltaic Modules and Panels. At the time of import, the appellant claimed exemption from payment of Basic Customs Duty under Notification Nos. 25/1999-Cus dated 28.02.1999 and 24/2005-Cus dated 01.03.2005, as amended by Notification No. 132/2006-Cus dated 30.12.2006. They also availed exemption from CVD under Sr. No. 332 of List 8 of Notification No. 12/2012-CE dated 17.03.2012 and exemption from SAD under Sr. No. 1 of Notification No. 21/2012-Cus dated 21.03.2012.

6.2 The appellant followed the procedure prescribed under the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 and executed the requisite bond of ₹1,00,00,000/- on 22.01.2013. Annexure-III permission was issued on 24.01.2013 by the jurisdictional Assistant Commissioner.

6.3 As per Sr. No. 21 of List 8 appended to Notification No. 12/2012-CE, exemption from CVD is available only for parts used in the manufacture of other parts which are, in turn, used in the manufacture of non-conventional energy devices or systems. In the present case, the imported items such as EVA Sheet and Junction Box which were directly used in the manufacture of Solar Photovoltaic Modules and Panels without undergoing any further manufacturing process. Therefore, the condition of "use in manufacture of parts" as stipulated in Sr. No. 21 of List 8 and Sr. 332 of the notification was not satisfied. Accordingly, the adjudicating authority held that the benefit of exemption from Additional Duty of Customs (CVD) under Notification No. 12/2012-CE was not admissible to the appellant and the exemption from SAD under Sr. No. 1 of Notification No. 21/2012-Cus dated 21.03.2012 was also not available to them.

7. I have gone through the impugned orders wherein the adjudicating authority has discussed and made his observation with respect to subject matter of Competent Jurisdiction, Transferring & Retrieval of the SCNs related to the present matter from Call

Book, Filing of appeal with the Tribunal vide Appeal No.: 11592/2015 against the OIA dt. 31.03.2025 passed by the Commissioner(A), Vadodara-II, Grounds of Appeals, CBIC instruction dt. 20.10.2010, Interpretation of the Notification and Confiscation of the subject Goods and on the basis of these passed the impugned orders.

7.1 It is observed that the Appellant had filed detailed submissions/defence replies to all the three Show Cause Notices. In their replies, the Appellant submitted that they had been issued Annexure-III by the Jurisdictional Division Assistant Commissioner under the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996. Based on this Annexure-III, the Port Customs authorities assessed the Bills of Entry pertaining to the subject goods and permitted their clearance. The Appellant has made elaborate & detailed submissions in their reply. However, from the perusal of impugned orders, it is noted that the adjudicating authority did not properly consider this submissions/ defence replies, nor has the impugned orders discussed or appreciated its relevance and significance to the present case.

7.2 It is observed that the Appellant contended that the Department has wrongly denied exemption under Notification No. 12/2012-CE dated 17.03.2012 (Sr. No. 332, List 8) on the ground that it applies only to parts manufactured within the same factory. It is submitted that the expression "consumed within the factory of production" equally covers imported parts used by the importer in its own factory for manufacturing solar panels/modules, as upheld by the Hon'ble Supreme Court in similar circumstances. Various orders passed by the Supreme Court of India were quoted by the appellant in this matter. I find that the impugned orders has not properly discussed the applicability of the cited Supreme Court judgments nor recorded any specific findings thereon, which amounts to a violation of the principles of natural justice.

7.3 It is observed that the appellant submitted in his reply that prior to the issuance of the present Notification No. 12/2012-CE, an identical exemption was available under the earlier Notification No. 205/88-CE, which contained exactly the same wording of the exemption provision. He quoted case law of M/s Solar Industries ltd Vs. Commissioner of Central Excise, Chennai . However, on verifying the relevant records it is found that the correct name is M/s Solker Industries Ltd instead M/s Solar Industries ltd. A similar issue was considered in the case of M/s SOLKER INDUSTRIES LTD. V/s COMMISSIONER OF CUSTOMS, CHENNAI reported in the 2007 (219) E.L.T. 732 (Tri. - Chennai). The relevant paragraph which is very much important in the present matter, quoted by the appellant is produced herein below :

"4. After giving careful consideration to the submissions, we find that the Notification, in terms of Sl. No. 18 therein, granted full exemption from payment of duty of excise on "parts consumed within the factory of production of such parts for the manufacture of goods specified at Sl. Nos. 1 to 17 above". Learned Commissioner (Appeals) observed that "the goods imported are consumed/used in the production not of parts but of the finished goods viz. solar photovoltaic module". Obviously "parts consumed within the factory of production of such parts" were misunderstood as "parts consumed in the production of such parts". To consume something in its own manufacture does not make sense. Consequently, the view taken by the lower authorities cannot be accepted as logical. Such a view is not justice-oriented either as it is inconsistent with legislative intent. A provision such as Sl. No. 18 of the Table annexed to Notification No. 205/88-CE, apparently suffering from the vice of having been ill-drafted, needs to be construed with reference to the legislative intent. As rightly pointed out by the appellants' representative, the Notification intended to make non-conventional energy devices such as "Solar photovoltaic modules and panels" cheaper to the common people by exempting parts thereof manufactured and captively consumed in a factory in India from payment of duty of excise as also by exempting identical parts from countervailing duty when imported into India. Hence Sl. No. 18 of the Table annexed to the Notification should be construed as "parts consumed in the manufacture of goods specified at Sl. Nos. 1 to 17 above". In this view of the matter, the benefit of the Notification is available to the appellants."

I find that the case law cited by the appellant is directly relevant to the present appeal and the issue involved. However, the adjudicating authority has completely ignored the said decision and has neither referred to nor discussed it in the impugned orders, this also amounts to a violation of the principles of natural justice.

7.4 The appellant submitted the importance and relevance of the instruction letter F.No.: 332/65/86-TRU dated 27.07.1987 with regard to the levy of additional (Countervailing) duty and Circular No.: 46/96-Customs dated 30/08/1996 issued from F.No.: B.40/8/96-TRU. However, no complete counterarguments to this instruction & circular discussed and recorded in the impugned orders.

8. It is further observed that the adjudicating authority in impugned orders at para no. 17 under the heading of Interpretation of the Notification, has discussed the issue of the applicability and interpretation of the Notification No.: 12/2012-CE dated 28.02.2012. The impugned orders noted that the parts which are imported by the

appellant should have been consumed within the factory of production of such parts for the manufacture of goods specified at Sr.No. 1 to 20.

8.1 The adjudicating authority examined and countered the appellant's contention regarding *"consumption within the factory of production"* for imported parts. The adjudicating authority relied on various judgments of the Hon'ble Supreme Court and the Appellate Tribunals. These rulings make it clear that the imported parts or inputs must be used or consumed within the factory. Such use must be for manufacturing parts that are further used in making the final goods. Details of such judgements/ orders are as under:

(i) BINNY LTD. Versus COMMISSIONER OF CENTRAL EXCISE, CHENNAI- (Civil Appeal No. 1510 of 2001, decided on 21-3-2006) reported vide 2006 (197) E.L.T. 334 (S.C.) ,

(ii) COMMISSIONER OF CENTRAL EXCISE, PUNE III Versus IKE ELECTRIC PVT. LTD reported vide 2017 (357) E.L.T. 1211 (Tri. - Mumbai),

(iii) COMMISSIONER OF C. EX., DELHI-IV Versus DEE DEVELOPMENT ENGINEERS (P) LTD reported vide 2016 (343) E.L.T. 702 (Tri. - Del.),

(iv) PAHARPUR COOLING TOWERS PVT. LTD. Versus COMMISSIONER OF C. EX., GHAZIABAD reported vide 2005 (182) E.L.T. 406 (Tri. - Del.),

(v) MAHARASHTRA SAFETY GLASS WORKS LTD. Versus COLLECTOR OF C. EX., PUNE reported vide 1999 (108) E.L.T. 459 (Tribunal) .

8.2 It is observed from the judgments relied upon by the adjudicating authority in the impugned orders that the same pertain to the Central Excise regime. In those cases, the benefit of exemption notifications was denied to the assessee on the ground that the parts or inputs were not used or consumed within the factory of manufacture. Whereas, in the present case, based on the available records and documents, it is evident that the imported parts were brought into the factory premises of the appellant and were actually consumed / used within the factory for the manufacture of Solar Photovoltaic Modules and Panels.

8.3 In view of the above factual position, it is evident that the adjudicating authority has not correctly appreciated and applied the ratio laid down in the judgments relied upon in the impugned orders. The said decisions were rendered in the context of the Central Excise regime, where the benefit of exemption was denied because the assessees had failed to establish actual consumption or use of inputs within the factory of production. However, in the present case, the factual matrix is entirely different. The available records and documents clearly show that the imported parts were duly brought

into the appellant's factory premises and were in fact consumed and utilized in the manufacture of Solar Photovoltaic Modules and Panels.

8.4 The adjudicating authority, by mechanically relying on the above judgments without distinguishing the factual and legal differences, has misapplied their ratio to the present case. Such an approach has resulted in an incorrect interpretation of the exemption provisions and has consequently caused prejudice to the appellant's legitimate claim. The denial of exemption on an erroneous appreciation of facts and law, therefore, amounts to a violation of the appellant's substantive rights under the applicable notification and the principles of natural justice.

9. It is observed that the Commissioner (Appeals), Central Excise, Customs & Service Tax, Vadodara-II, vide Order-in-Appeal No. CCEA/Vad(App-II)/SSP-124/2014-15 (Final Order) dated 31.03.2015, had set aside Order-in-Original No. 65/JC-OP/Dem/Olpad/2014 dated 07.10.2014 and allowed the appeal filed by M/s Goldi Green Technologies Pvt Ltd., Block No. J&K-1, Pipoara, N.H. 8, District-Surat. On perusal of the said Order-in-Appeal, it is found that both the appellant and the issue involved therein are identical to those in the present appeal. Therefore, the discussion, findings, judicial precedents, circulars, and submissions presented & considered in that Order-in-Appeal ought to have been followed in letter and spirit by the adjudicating authority while deciding the present case. However, no such consideration is found in the impugned order, which amounts to deviation from judicial discipline and disregard of the doctrine of judicial precedent, thereby violating the principles of natural justice.

10. It is further observed that the appellant, through the Appeal Memorandum dated 03.07.2024, during the course of personal hearing, and by way of additional written submissions dated 03.07.2025, has furnished a detailed and exhaustive reply covering various aspects relevant to the present appeal. On examination of these submissions, it is noted that such additional documents and arguments were not placed before the adjudicating authority at the time of passing the impugned orders. Therefore, in the interest of natural justice, it is necessary that these submissions be properly evaluated and appreciated by the adjudicating authority. Accordingly, the matter is remanded to the adjudicating authority for de novo consideration and decision after granting the appellant an adequate opportunity of personal hearing.

11. In view of the observations and discussions made in paragraphs 7 to 10 above, I find that remitting the present appeals to the adjudicating authority for passing a fresh order, after due examination of the submissions made by the appellant and the

findings of the Commissioner (Appeals), Central Excise, Customs & Service Tax, Vadodara-II vide Order-in-Appeal dated 31.03.2015, has become *sine qua non* to meet the ends of justice. Accordingly, in terms of sub-section (3) of Section 128A of the Customs Act, 1962, the case is remanded back to the adjudicating authority for passing a fresh order after granting the appellant a reasonable opportunity of personal hearing and by strictly following the principles of natural justice. In this regard, I also rely upon the judgment of Hon'ble High Court of Gujarat in case of Medico Labs- 2004 (173) ELT 117 (Guj.), Judgment of Hon'ble Bombay High Court in case of Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)] and Judgments of Hon'ble Tribunals in case of Prem Steels Pvt. Ltd. [2012-TIOL-1317-CESTAT-DEL] and Hawkins Cookers ltd. [2012 (284) E.L.T. 677 (Tri.-Del)] holding that Commissioner (Appeals) has power to remand the case under Section – 35A (3) of the Central Excise Act, 1944 and Section – 128A (3) of the Customs Act, 1962.

12. Accordingly, all the three appeals filed by the appellant are allowed by way of remand to the adjudicating authority for passing a fresh orders after duly considering all the submissions and defence reply made by the appellant and the records available in the present appeals. The adjudicating authority shall examine the facts, documents, and submissions in detail, and issue a reasoned and speaking order afresh in accordance with law and by following the principles of natural justice.

सत्यापित/ATTESTED
अधीक्षक/SUPRERINTENDENT
सीमा शुल्क (अपील्स), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD

(Amit Gupta)
Commissioner (Appeals),
Customs, Ahmedabad

Date: 11.11.2025

F. No.: (i) S/49-109/CUS/AHD/24-25
F. No.: (ii) S/49-110/CUS/AHD/24-25
F. No.: (iii) S/49-111/CUS/AHD/24-25

By Speed Post.

To,
M/s. Goldi Solar Pvt Ltd.,
(Formerly known as Goldi Green Technologies Pvt Ltd.),
Block No.: J & K1,
Pipodara, N.H.- 08,
District-Surat

Advocate Shri Sanjeev Nair and CA Shri Rishin Gala,
Rishin.Gala@lumierelp.com

Copy to:

1. The Chief Commissioner of Customs Gujarat, Custom House, Ahmedabad. (email: ccoahm-guj@nic.in)
2. The Principal Commissioner of Customs, Custom House, Ahmedabad. (email: cus-ahmd-guj@nic.in rra-customsahd@gov.in)
3. The Additional Commissioner of Customs, Althan, Surat. (email: adjcus-surat@gov.in cus-ahmd-adj@gov.in epcsurat-05@gov.in) .
4. The Deputy/Assistant Commissioner of Customs, EPC-05, Surat . (epcsurat-05@gov.in)
5. Advocate Shri Sanjeev Nair and CA Shri Rishin Gala, (Rishin.Gala@lumierelp.com)
6. Guard File.