



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 - 20250671MN0000222C95

क	फ़ाइल संख्या FILE NO.	S/49-12/CUS/MUN/2024-2025
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)	MUN-CUSTM-000-APP-095-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	24.06.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	Order-in-Original No. MCH/756/AC/KRP/GR-III/2023-24 dated 07.02.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	24.06.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Suraj Constructions, 1st Floor, No. 91, Poonamalle High Road, Egmore, Chennai - 600 084



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 हैं।
	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)	बैगेज के रूप में आयातित कोई माल.
(a)	any goods exported
(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 दस्तावेजों 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/- (रुपए दो सौ मात्र) या रु. 1000/- (रुपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रुपए 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 हैं
	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, केन्द्रीय 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
	2 nd 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 व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हजार रूपए.
(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 व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हजार रूपए
(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 व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हजार रूपए.
(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

Appeal has been filed by M/s. Suraj Constructions, 1st Floor, No. 91, Poonamalle High Road, Egmore, Chennai – 600 084, (hereinafter referred to as the 'appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original No. MCH/756/AC/KRP/GR-III/2023-24 dated 07.02.2024 (hereinafter referred to as 'the impugned order') passed by the Assistant Commissioner, Import Assessment Gr-III, Custom House, Mundra (hereinafter referred to as the 'adjudicating authority').

2. Facts of the case, in brief, are that the appellant filed Bill of Entry No. 4967529 dated 10.03.2023 through CB M/s. Luvkush Shipping Services for import of Clear Float Glass (Non-wired glass, Non Tinted, having an absorbent, non-reflecting layer) of various specifications declared under CTH 70051090 and availed the benefit of Notification No. 46/2011-Customs dated 01.06.2011 Sr.No. 934(I) in the Bill of Entry. Bill of Entry went to FAG for assessment and following query was raised by the FAG officer:

"PLEASE EXPLAIN WHY GOODS SHOULD NOT BE CLASSIFIED UNDER CTH 700529, IN LIGHT OF AP 4.10.01 (DAP 83 & 84) OF AR NO. 17 OF 2020, PLEASE UPLOAD PR. TEST REPORT OF IDENTICAL ITEMS PURCHASED FROM SAME SUPPLIER WHEREIN EXPLICITLY STATED THAT AN ABSORBENT LAYER HAS BEEN FOUND OTHER THAN TIN SIDE FOR CLASSIFYING THE GOODS UNDER CTH 70051090 ALONGWITH OTHER SPECIFICATIONS, SUCH AS WHETHER TINTED OR NOT, WHETHER CLOLOUR FOUND THROUGHOUT THE MASS OR NOT, WIRED OR NON WIRED ETC., YOUR REPLY SHOULD BE SPECIFIC AS PER QUERY. ALSO PLEASE UPLOAD PR. TEST REPORT, IF ANY AND FORM 1 FOR THE CTH 70051090 CLAIMED. THE GOODS APPEARS TO BE CLASSIFIABLE UNDER CTH 700529."

2.1 Following reply was given by the CB to the query:

"SIR, DOCUMENTS UPLOADED FOR THE QUERY RAISED WHICH EXPLAINS THE CLASSIFICATION ALSO UPLOADED PR. TEST REPORT ALONG WITH BELOW MENTIONED DOCUMENTS WITH IRN NOS. BE 4967529 - QRY1 - REPLY LETTER -- IRN NO: 2023031100009671,



ADVANCE RULING FOR SURAJ CONTRUCTION -IRN NO: 2023031100009669, AIRMILL- SPEED POST -- IRN NO: 2023031100009670, CATALOUGE 1 -- IRN NO: 2023031100009672, CATALOUGE 2 -- IRN NO: 2023031100009673, LATEST CSIR TEST REPORT -IRN NO: 2023031100009780, MANUFACTURER PRODUCTION PROCESS STEP BY STEP -- IRN NO: 2023031100009781, ORDER-IN-APPEALS ISSUED COMMNR OF CUSTOMS - IRN NO: 2023031100009782, SECTION 3 -- IRN NO: 2023031100009783 FOR YOUR READY REFERENCE."

2.2 Subject Bill of Entry was pushed to PAG with the following remark by the FAG:

"THE IMPORTER M/S. SURAJ CONSTRUCTIONS HAD FILED A BILL OF ENTRY BEARING NO. B/E NO. 4967529 DATED 09.03.2023 FOR CLEARANCE OF THE GOODS HAVING BROAD DESCRIPTION CLEAR FLOAT GLASS OF DIFFERENT SIZES AND THE SAME HAS BEEN CLASSIFIED UNDER CTH 70051090 ATTRACTS BCD @ NIL CLAIMING NOTIFICATION NO. 046/2011 DATED 01.06.2011 UNDER SL. NO. 934 (I). IN VIEW OF THE ABOVE THE CORRESPONDING CTH IS BEING REPRODUCED BELOW FOR READY REFERENCE PLEASE.

7005	FLOAT GLASS AND SURFACE GROUND OR POLISHED GLASS, IN SHEETS, WHETHER OR NOT HAVING AN ABSORBENT, REFLECTING OR NON-REFLECTING LAYER, BUT NOT OTHERWISE WORKED		
CTH	DESCRIPTION	UQC	BCD
700510	NON-WIRED GLASS, HAVING AN ABSORBENT, REFLECTING OR NON-REFLECTING LAYER:		
70051010	TINTED	SQUARE METER	10%
70051090	OTHER	SQUARE METER	10%
	OTHER NON-WIRED GLASS:		
700521	COLOURED THROUGHOUT THE MASS (BODY TINTED) OPACIFIED, FLASHED OR MERELY SURFACE GROUND:		



Handwritten signature

70052110	TINTED	SQUARE METER	10%
70052190	OTHER	SQUARE METER	10%
700529	OTHER:		
70052910	TINTED	SQUARE METER	10%
70052990	OTHER	SQUARE METER	10%
700530	WIRED GLASS:		
70053010	TINTED	SQUARE METER	10%
70053090	OTHER	SQUARE METER	10%

IT APPEARS THAT THE GOODS IN QUESTION ARE HAVING MERIT CLASSIFICATION UNDER CTH 700529 AS PER DAP (83& 84) OF AR 2017. ACCORDINGLY, A QUERY WAS RAISED BY THE ASSESSING GROUP TO EXPLAIN WHY THE GOODS SHOULD NOT BE CLASSIFIABLE UNDER CTH 700529 IN TERMS AP 4.10.01 (DAP 83 & 84) OF AR 17 OF 2020.

THE FLOAT GLASS PROCESS WAS INVENTED IN THE 1950S IN RESPONSE TO A PRESSING NEED FOR AN ECONOMICAL METHOD TO CREATE FLAT GLASS FOR AUTOMOTIVE AS WELL AS ARCHITECTURAL APPLICATIONS. EXISTING FLAT GLASS PRODUCTION METHODS CREATED GLASS WITH IRREGULAR SURFACES; EXTENSIVE GRINDING AND POLISHING WAS NEEDED FOR MANY APPLICATIONS. THE FLOAT GLASS PROCESS INVOLVES FLOATING A GLASS RIBBON ON A BATH OF MOLTEN TIN AND CREATES A SMOOTH SURFACE NATURALLY. FLOATING IS POSSIBLE BECAUSE THE DENSITY OF A TYPICAL SODA-LIME-SILICA GLASS (~2.3 G/CM³) IS MUCH LESS THAN THAT OF TIN (~6.5 G/CM³) AT THE PROCESS TEMPERATURE. AFTER COOLING AND ANNEALING, GLASS SHEETS WITH UNIFORM THICKNESSES IN THE ~1.25 MM RANGE AND FLAT SURFACES ARE PRODUCED.

THE ABOVE MANUFACTURING PROCESS IS WELL KNOWN. AS THE GLASS RIBBON IS FLOATED ON A BATH OF MOLTEN TIN, A LAYER OF TIN IS ALWAYS SEEN IN ANY FLOAT GLASS. UNDER UV LIGHT IT IS ILLUMINATED AND THAT SIDE IS IDENTIFIED AS TIN SIDE.

ABSORBENT LAYER IN FLOAT GLASS IS IN ADDITION TO THE TIN LAYER. CHAPTER NOTE 2(C) HAS EXPLAINED THE ABSORBENT LAYER AS BELOW.




THE EXPRESSION ABSORBENT, REFLECTING OR NON-REFLECTING LAYER MEANS A MICROSCOPICALLY THIN COATING OF METAL OR OF A CHEMICAL COMPOUND (FOR EXAMPLE, METAL OXIDE) WHICH ABSORBS, FOR EXAMPLE, INFRA-RED LIGHT OR IMPROVES THE REFLECTING QUALITIES OF THE GLASS WHILE STILL ALLOWING IT TO RETAIN A DEGREE OF TRANSPARENCY OR TRANSLUCENCY; OR WHICH PREVENTS LIGHT FROM BEING REFLECTED ON THE SURFACE OF THE GLASS.

ONCE THE IMPORTED GOODS COME OUT OF THE PURVIEW OF 700510, THE GOODS APPEAR TO BE COVERED UNDER SUB-HEADING 700521. AS THE GLASS IS NOT TINTED, HENCE IT WILL IDEALLY FALL UNDER 700521.

FURTHER TRANSPARENT FLOAT GLASS REQUIRES MANDATORY BIS CERTIFICATION VIDE IS NO. 149000:2018, HOWEVER ON SEEKING BIS COMPLIANCE IMPORTER HAS NOT REPLIED PROPERLY.

IT IS PERTINENT TO MENTION THAT EVEN TRANSPARENT FLOAT GLASS CAN HAVE LIGHT GREYISH / GREENISH COLOUR AS TRANSPARENCY OF TRANSPARENT FLOAT GLASS VARY FROM 70% TO 92-93%, HENCE WITHOUT TEST REPORT IT CAN'T BE ASCERTAINED WHETHER GOODS ARE BIS ATTRACTING OR NOT, HENCE WITHOUT GETTING CHECKED BIS COMPLIANCE B/E CAN'T BE ASSESSED.

FURTHER AS PER DAP (83& 84) OF AR 2017 THE MERIT CLASSIFICATION IS UNDER 700529.

HENCE, B/E NO. 4967529 DATED 09.03.2023 MAY BE PUSHED BACK TO PAG (MUNDRA, INMUN1) FOR VERIFICATION OF MANDATORY COMPLIANCE OF BIS AND ASCERTAIN THE CLASSIFICATION AFTER GETTING TEST REPORT."

2.3 After receipt of subject Bill of Entry in PAG, another query was raised by the PAG officer to justify classification. Following reply was given by the CB to the query:

"SIR, UPLOADED REPLY LETTER DATED 14.03.23 VIDE IRN NO.



[Handwritten signature]

2023031400127464 EXPLAINING THE JUSTIFICATION ALONG WITH ALL SUPPORTING DOCUMENTS UPLOADED PREVIOUSLY. Advance Ruling for Suraj Contruction - IRN NO: 2023031100009669, AIRMILL SPEED POST - IRN NO: 2023031100009670, CATALOUGE 1 - IRN NO: 2023031100009672, CATALOUGE 2 - IRN NO: 2023031100009673, Latest CSIR Test Report - IRN NO: 2023031100009780, Manufacturer Production Process step by step -- IRN NO: 2023031100009781, Order-in-Appeals issued Commr of Customs -- IRN NO: 2023031100009782. SECTION 3 - IRN NO: 2023031100009783, ADVANCE RULING ISSUED BY MUMBAI CUSTOMS VIDE IRN NO. 2023031300117452, BANK GUARANTEE CANCELLED BY NHAVASHEVA IRN NO. 2023031400127465, CSIR REPORT FOR CHENNAI WHERE BOND CANCELLED VIDE IRN NO: 2023031400127463."

2.4 Examination of the cargo was carried out as per Examination Order. Subsequently, the BE was assessed by the PAG officer and classification of the goods was changed to 70052990 as per DAP (83&84) 2018-19 of Audit Report No. 17 of 2020. Accordingly, benefit under Sr.No. 934(I) of Notification No. 46/2011-Customs dated 01.06.2011 available for CTH 70051090 was changed to Sr.No. 935(I) of the said Notification available for CTH 70052990. In view of the foregoing paras, an assessment order in terms of Section 17(5) of the Customs Act, 1962 is being issued for the subject Bill of Entry.

2.5 The adjudicating authority vide the impugned order as ordered as under:

a. He rejected the classification of the items viz. Clear Float Glass (Non-wired glass, Non Tinted, having an absorbent, non-reflecting layer) of various specifications declared under CTH 70051090 and order to assess the items under CTH 70052990 in Bill of Entry No. 4967529 dated 10.03.2023.

b. Subsequently, he rejected the benefit of Sr.No. 934(I) of Notification No. 46/2011-Customs dated 01.06.2011 available for CTH 70051090 and ordered to assess the Bill of Entry under the benefit of Sr.No. 935(I) of the said Notification available for CTH 70052990.

AL



3. SUBMISSIONS OF THE APPELLANT:

Being aggrieved with the impugned order, the Appellant has filed the present appeal wherein they have submitted grounds which are as under:-

3.1 It is submitted that the issue involved in the appeal is covered by the decision of the Hon'ble Tribunal in the case of Bagarecha Enterprises Ltd. Vs. Commissioner of Customs, Kolkata [Order dated 03.11.2023 passed in Appeal Nos. C/75536 TO 75538/2023]. The Hon'ble Tribunal has held that the presence of the tin layer on the clear float glass is sufficient to classify the same under CTH 7005 1090. The said decision squarely covers the issue involved in the present appeal. It is submitted that the appellant, is a regular appellant of clear float glass with an absorbent layer, which are classifiable under CTH 70051090. The said goods are eligible for NIL rate of BCD as per Sl.No. 934 of Notification No.46/2011 dated 01.06.2011. The appellant are regularly importing the said goods from Malaysia and are availing the benefit of Sl. No. 934 (I) of Notification No.46/2011 dated 01.06.2011. It is further submitted that the goods imported are rightly classifiable under CTH 7005 1090.

It is evident from above, that float glass having an absorbent layer and which are non-tinted are classifiable under CTH 70051090. The appellants have regularly imported the said goods from Malaysia and were classifying the goods under CTH 70051090.

3.2 It is submitted that from the reading of heading 7005 it is apparent that the heading is for float glass and some other glass with different adjective, adjectives being common for both float glass and other category of glasses. CTH 7005 has three - sub headings:

(i) "Non-wired glass having an absorbent, reflecting or non-reflecting layer, Tinted category gets covered in this specific sub heading at --- level. Others will fall under group category at the --- sub heading 70051090.

(ii) Two --- sub headings come under the second -- sub heading with a description "- other non-wired glass". These two --- sub headings come under a common -- sub heading "coloured throughout the mass (body tinted), opacified, flashed or merely surface ground. First --- level sub heading covers "tinted" and other glasses of the description mentioned in -- level sub heading gets covered in the next --- level sub heading "other". So, "other than tinted in the group of level



[Handwritten signature]

description mentioned above comes under --- level sub heading 7005 2190.

3.3 The Second -- level sub heading under the second - of the CTH 7005 is with a description "other", to sub divide into two --- sub headings "tinted" and "other" the Department wants to push the clear safety glass into this category. None of the sub headings under CTH 7005 refers to "float glass" separately for the purpose of classifying under - or -- or --- categories. None of the sub headings except in the first - sub heading the quality of the products "Absorbent nature" emerges. It is submitted that the appellant has imported only Clear Float Glass. The very process of float glass manufacture causes a thin coating of tin metal on one side of the glass as a float happens on molten tin. The Chapter Note 2(c) of Chapter 70 explains what an absorbent, reflecting or non-reflecting layer means. It states that it means "A microscopically thin coating of metal or". It is not an issue that tin is a metal. It is also not an issue that a coating should take place by a process extraneous to the basic manufacturing process. It is not also in dispute that the thin layer of tin coating on one side of the imported product acts as "absorbent reflecting....." layer as opined by the Testing Cell, CGCRI. This opinion itself was good enough to establish that the goods in question have an absorbent layer. It is submitted that in paragraph 8.2 of the impugned order, the Assistant Commissioner, Import Assessment (Group-3) has held that the presence of tin layer cannot be construed to be an absorbent layer for the purposes of heading 70051090 since according to the Assistant Commissioner, Import Assessment (Group-3) a tin layer is an essential part of all float glass because of the manufacturing process of float glass. The Assistant Commissioner, Import Assessment (Group-3) has given a technical finding without any backing of an expert opinion. The question for consideration is whether the float glass imported by the appellant is having an absorbent layer or not so as to merit classification under heading 70051090.

3.4 The test report dated 02.02.2022 of CSIR, Kolkata read with the clarification dated 30.02.2022 clearly states that the tin layer is UV absorbent. This means that the float glass imported by the appellant has an absorbent layer. The fact whether the tin layer is automatically formed in the course of manufacture of the float glass does not make any difference in the classification of the product under heading 7005 1090. The crucial question is whether the product has an absorbent layer and the answer to this question is in the affirmative, which is backed by an expert opinion by CSIR, Kolkata. The argument in Para 8.7 of the impugned order that the goods in question has got



a coating of absorbent material as "a natural phenomena" is alien to the CTH in question. Relying only on the "Chemical vapour deposition to apply a microscopically thin coating on the glass at a temperature of about 600°C", conveniently ignores that the coating can be of metal also (Note 2(c) of Chapter 70). An investigation as to whether float glass can be manufactured without tin bath or not, is beyond the scope of the present case because other than float glass is also covered under CTH 7005. The product in hand is "clear" it is not "surface ground or polished glass", but "in sheets", having an "absorbent, reflecting..... layer, but not otherwise worked". Para 8.2 and 8.7 are contradicting each other and in the process, the impugned order loses further steam.

3.5 It is submitted that for a similar product imported by the M/s. Float Glass Centre, vide bill of entry No. 8520077 dated 19.10.2018, CSIR Kolkata had issued a test report dated 04.02.2019. The test report states that "an absorbent layer (tin)" is observed on one side of the glass which is Florissant under UV illumination for both the glasses". Here again, CSIR Kolkata have confirmed the fact that the tin layer on the float glass has to be considered as the absorbent layer. There is no technical or expert opinion which supports the case of the Department that the presence of tin layer cannot be considered to be the absorbent layer for the purpose of classification of a product under CTH 70051090. It is submitted that a similar issue came up for consideration before the Commissioner of Customs (Appeals), New Delhi in the case M/s. Asahi India Glass Limited. The Commissioner (Appeals), vide order-in-appeal no. CC(A) CUS/D-II/ICD/PPG/861-863/2022-23 dated 20.07.2022 held that the declared classification in respect of clear float glass under CTH 70051090 was correct. In Page 9 of the said order, the Commissioner (Appeals) has found that since the goods have an absorbent layer (Tin) on one side, they merit classification under CTH 7005 1090. It is submitted that in an identical issues pertaining to the classification of clear float glass, the Commissioner of Customs (Appeals), vide the following orders-in-appeal had upheld the classification of the goods under CTH 70051090 and had extended the benefit of S1.No. 934 of notification No.46/2011-Cus dated 01.06.2011.

(i) Order-in-appeal NO.CUS-000-APP-400-22-23 dated 09.03.2023

(ii) Order-in-appeal NO.CUS-000-APP-401-22-23 dated 09.03.2023



3.6 It is submitted that the appellant had approached the Customs Authority for Advance Ruling, with respect to the classification of the import of identical goods, under section 28H of the Customs Act, 1962. The Customs Authority for Advance Ruling vide order dated 10.05.2022 in Ruling No.CAAR/Mum/ARC/10/2022, has held in that, the subject goods 'Clear Floats Glass' with absorbent layer on only one side would merit classification under heading 70.05 and more specifically, under the sub heading 70051090 of the first schedule Customs Tariff Act, 1975. In page 5 of the said order, Advance Ruling Authority held that the goods have an absorbent layer, which is fluorescent under UV illumination and covers the heading 700521 to 7005 29 which deals with non-wired glasses which are tinted having an absorbent layer and therefore the subject goods are appropriately covered under subheading 7005 1090. In the said case the Hon'ble Authority for Advance Ruling held that irrespective of the tariff heading mentioned in the Country of Origin Certificate, the classification has to be determined as per the General Rules of Interpretation of the First Schedule to the Customs Tariff Act.

3.7 It is submitted in the another identical matter the Customs Authority for Advance Ruling, Mumbai vide Ruling No. CAAR/Mum/ARC/36/2021 dated 24 September 2021, in the case of M/s.Chandrakala Associates it is held from page 4 of the said order, Principal Commissioner/Commissioner of Customs, the subject goods are clear float glass, with an absorbent layer, which is fluorescent under the UV illumination. The subject goods 'clear float glass' having an absorbent layer merit classification under the heading 70.05 and more specifically under the sub-heading 70051090 of the first schedule of the Customs Tariff Act, 1975. It is submitted that domestic manufactures of identical products such as M/S. Saint Gobain classify the goods under CTH 7005 1090. The appellant has also learnt that an identical product was imported through the port of NhavaSheva from Malaysia and after ascertaining that the product had an absorbent layer, accepted the appellant's classification under CTH 70051090. In fact, majority of the imports into India of Float Glass having absorbent layer have been correctly classified under CTH 70051090 as is evident from the data collected from the website zauba and planetexim. The appellant relies upon this data in support of their submission.

3.8 It is submitted that the entire allegation as well as confirmation of this re assessment leading to a re-classification is borne out of an audit para 4.10.01 (DAP 83 of audit report No. 17/2020). Kind reference is drawn to



Circular No. 1023/11/2016-CX dated 8.04.2016 issued by the Central Board of Excise and Customs on adjudication of Show Cause Notices issued on the basis of CERA/CRV objections. As per para 5 of the said circular, with regard to the adjudication of Show Cause Notices issued pursuant to an audit objection by CERA/CRA, it has been stated that, the adjudication of admitted DAP/AP's should be undertaken after ensuring that the reply given by the ministry (CBEC) is available on record. In this instant case, no such reply given by the Ministry is made available on record. In this connection the appellant through his resources had applied and sought the Ministry's Action Taken Note (ATN) on the above said audit para by way of information sought under the RTI Act and a perusal of the same would reveal that the Ministry has replied in detail both scientifically as well as legally justifying the classification of the CFG under Chapter heading CTH 700510 90, in their reply to the said audit para. The appellant submits that when the Action Taken Report (ATN) by the Ministry of Finance clearly contended that the subject product is classifiable under CTH 700510 90, ignoring the same is biased approach by the respondent.

3.9 It is also a well-founded legal ratio laid by the Hon'ble Supreme Court in the case of Hindustan Ferodo Ltd reported in 1997 (89) E.L.T. 16 (S.C) wherein the Hon'ble Supreme Court has held that it is the onus and responsibility of the department to prove and establish the classification of a product in case where the department confronts a classification claimed by the assessee. Relevant portion of the said decision is reproduced below for ready reference.

3. It is not in dispute before us, as it cannot be, that the onus of establishing that the said rings fell within Item 22F lay upon the Revenue. The Revenue led no evidence. The onus was not discharged. Assuming therefore, that the Tribunal was right in rejecting the evidence that was produced on behalf of the appellants, the appeal should, nonetheless, have been allowed.

3.10 Reliance is also placed on the following cases wherein it is categorically held that in case of classification of goods, the onus is on the department;

- Collector of Central Excise Versus Calcutta Steel Industries and Others reported in 1989 (39) E.L.T. 175 (S.C).



Handwritten signature

- Parle Agro (P) Ltd. Versus Versus Commr. Of Commercial Taxes, Trivandrum reported in 2017 (352) E.L.T. 113 (S.C).
- Puma Ayur Ayurvedic Healing (P) Ltd. Versus Commissioner of C. Ex Commr. C. Ex., Nagpur reported in – 2006 (196) E.L.T. 3 – (S.C.).

In this case the responsibility falls is cast upon on the claimant to show that proof that the classification claimed by claimant by claimant is incorrect. Thus is, it is respectfully submitted that the claimant for classification has claimed for the CFG is right under Chapter heading 7 005 1090 is correct and under it is hereby requested that it may be upheld under setting aside the contravention allegations contained in the Order in contravention.

3.11 It is submitted that the representative of the appellant had submitted an application dated 20.06.2023 with M/s. Central Glass Research Centre(CSIR), Kolkata. One of the questions raised was whether the test reports issued by the institute is relating to the existence of observant tin layer on one side of the clear float glass . The Institute vide their reply dated 17.07.2023 have clarified that the float glass tested by them contain an absorbent tin layer on one side under and it has been clarified by the Institute that the presence of an absorbent tin under layer would make mean that the float glass has an absorbent under and non-reflective layer.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 27.05.2025 following the principles of natural justice wherein Shri Madan G Advocate appeared for the hearing in virtual mode. He re-iterated the submission made at the time of filing the appeal and also made additional submissions as under:

4.1 It is submitted that the issue involved in the appeal is covered by the decision of the Hon'ble Tribunal passed in respect of the same appellant in M/s. Suraj Constructions Vs. Commissioner of Customs, Chennai vide final order nos. 40431-40435 /2025 dated 09.04.2024 (A copy of the same is enclosed herewith). Further, the issue involved in the appeal is covered by the decision of the Hon'ble Tribunal in respect of other appellants in:

(i) M/s. Float Glass Centre. Vs. Commissioner of Customs, Chennai vide final



order nos. 40876- 40908-2024 dated 18.07.2024

(ii) M/s. Bagarecha Enterprises Ltd. Vs. Commissioner of Customs, Kolkata reported in (2023) 13 Centax 321 (Tri-Cal)

(iii) M/s. Bagarecha Enterprises Ltd. Vs. Commissioner of Customs, Chennai reported in 2024 (5) TMI 943 CESTAT CHENNAI.

4.2 The Hon'ble Tribunals has held that the presence of the tin layer on one side of the clear float glass is sufficient to classify the same under CTH 7005 1090. It is therefore submitted that there is no requirement that the absorbent layer should be a result of artificial coating or that the same should be present on both sides of the clear float glass to merit classification under CTH 70051090.

4.3 For the reasons mentioned above and for the reasons mentioned in the Appeal memorandum, it is most humbly prayed that the impugned assessment made in the bills of entry may please be set aside and the Proper Officer may be directed to reassess the bills of entry by classifying the goods under CTH 70051090 extending the benefit of SL.No. 934 of Notification No.46/2011 dated 1.6.2011 and thus render justice.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned order passed by the Assistant Commissioner, Import Assessment Gr-III, Custom House, Mundra and the defense put forth by the Appellant in their appeal.

5.1 On going through the material on record, I find that the central issue for determination is the correct classification of "Clear Float Glass" and, consequently, its eligibility for exemption under Notification No. 46/2011-Cus dated 01.06.2011.

5.2 A fundamental principle of the judicial system is that lower authorities are bound by the pronouncements of higher appellate fora. The Hon'ble Supreme Court in Union of India & Ors. v. Kamalakshi Finance Corporation Ltd., reported in [1991 (55) ELT 433 (SC)], unequivocally stated that "the orders passed by the higher appellate authorities and the High Court are binding on the lower authorities." Similarly, the Hon'ble Bombay High Court in Tata Motors Ltd. Vs Union of India [2009 (244) ELT 337 (Bom.)] reiterated this principle.



[Handwritten signature]

5.3 In the present case, it is undeniable that the Hon'ble CESTAT, Chennai, has, in the Appellant's own case, i.e., M/s. Suraj Constructions Vs. Commissioner of Customs, Chennai, vide Final Order Nos. 40431-40435/2025 dated 09.04.2025, conclusively decided the very same classification dispute concerning "Clear Float Glass." The Tribunal held that:

"...the imported Clear Float Glass is more appropriately classifiable under Customs Tariff Heading 7005 1090 of the Customs Tariff Act, 1975 and thus is eligible for the exemption benefit of the Notification No. 46/2011-Cus. dated 01.06.2011 (Sl.No. 934) and as such, the impugned Order-in-Appeal C.Cus.II No. 463-467/2024 dated 16.05.2024 of Commissioner of Customs (Appeals II) cannot be sustained and ordered to be set aside. So, ordered accordingly."

5.4 This clear pronouncement by the higher appellate authority directly on the goods and the classification in question, involving the same appellant, is binding on the adjudicating authority. The impugned order, having been passed prior to or without considering this definitive ruling, suffers from a material infirmity. Furthermore, the Appellant has correctly pointed out that multiple other CESTAT benches have consistently taken the same view on identical issues, such as in M/s. Float Glass Centre. Vs. Commissioner of Customs, Chennai (Final Order Nos. 40876-40908/2024 dated 18.07.2024) and M/s. Bagarecha Enterprises Ltd. Vs. Commissioner of Customs, Kolkata (2023) 13 Centax 321 (Tri-Cal), which further strengthens the position that the classification under CTH 7005 1090 is well-settled.

5.5 The argument that the inherent tin layer formed during the float glass manufacturing process does not qualify as an "absorbent layer" as per Chapter Note 2(c) to Chapter 70 of the Customs Tariff Act, 1975, is not tenable. Chapter Note 2(c) defines the effect of such a layer ("absorbs... infra-red light or improves the reflecting qualities") and clarifies that it can be a "microscopically thin coating of metal or of a chemical compound." The test report from CGCRI, a credible scientific institution, unequivocally states that the tin layer is UV absorbent, thus fulfilling the functional requirement of an "absorbent layer" as defined in the Tariff. The mode of formation (whether artificially applied or inherent to the process) is not a distinguishing factor in the statutory definition as long as the layer performs the specified function. The Customs Authority for



Advance Ruling (CAAR) rulings in the Appellant's own case and that of M/s. Chandrakala Associates further corroborate this interpretation.

5.6 The reliance by the adjudicating authority on the CTH mentioned in the COO certificate for determining the classification is misplaced. As established by the CAAR rulings, the classification declared in a COO certificate is not determinative of the correct Customs Tariff classification under the Customs Tariff Act, 1975. The classification of imported goods must be determined based on the General Rules of Interpretation of the Harmonized System and the Chapter/Section Notes, read with the description of goods.

5.7 The argument that the Appellant did not register a formal protest is also without merit. The factual matrix clearly indicates that the Appellant intended to classify the goods under CTH 7005 1090 and was only compelled to declare under a different CTH to avoid substantial demurrage and detention charges. Furthermore, the subsequent filing of this appeal itself serves as a clear indication of their protest against the assessment. Substantive issues of classification, especially when supported by binding judicial precedents, cannot be rejected merely on procedural grounds, particularly when the procedural compliance was a result of departmental insistence to avoid further financial burden on the appellant.

5.8 Given the binding nature of the CESTAT's decision in the Appellant's own case, and the consistent interpretation of the relevant tariff heading by multiple judicial fora and expert bodies, it is evident that the impugned order needs to be re-examined. The adjudicating authority appears to have passed the order without the benefit of this specific and conclusive CESTAT ruling, which directly addresses the core dispute. Therefore, for a just and proper adjudication, the matter must be remanded back to the original authority for a fresh consideration in light of the settled legal position. This approach is consistent with the principles of natural justice, ensuring that all relevant facts and binding legal pronouncements are duly considered. 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 P. Ltd. [2012-TIOL-1317-CESTAT-DEL] and the case of Hawkins Cookers Ltd. [2012 (284) E.L.T. 677(Tri. – Del)] wherein it was held that Commissioner (Appeals) has power to remand the case under

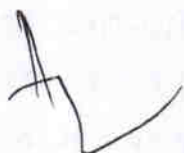


Handwritten signature

Section-35A(3) of the Central Excise Act, 1944 and Section-128A(3) of the Customs Act, 1962.

6. In view of the detailed discussions and findings above, and in exercise of the powers conferred under Section 128A of the Customs Act, 1962, I pass the following order:

- (i) I hereby set aside the Order-in-Original No. MCH/756/AC/KRP/GE-III/2023-24 dated 07.02.2024.
- (ii) I remand the matter to the adjudicating authority for de novo adjudication with the specific direction to reconsider the classification of "Clear Float Glass" imported by M/s. Suraj Constructions. The adjudicating authority shall:
 - a. Strictly apply the ratio of the Final Order Nos. 40431-40435/2025 dated 09.04.2025 passed by the Hon'ble CESTAT, Chennai, in the Appellant's own case, M/s. Suraj Constructions Vs. Commissioner of Customs, Chennai.
 - b. Also take into account other consistent rulings from the CESTAT (e.g., M/s. Float Glass Centre, M/s. Bagarecha Enterprises Ltd.) and the Customs Authority for Advance Ruling (CAAR) rulings (e.g., M/s. Suraj Constructions and M/s. Chandrakala Associates) regarding the classification of Clear Float Glass with an absorbent tin layer under CTH 7005 1090.
 - c. Re-examine the eligibility of the goods for exemption under Sl. No. 934 of Notification No. 46/2011-Cus dated 01.06.2011.
 - d. Afford the Appellant a proper opportunity of being heard in person.
- (iii) A fresh speaking order shall be passed by the adjudicating authority in accordance with law and the principles of natural justice, considering all submissions and the binding judicial pronouncements.




The appeal filed by M/s. Suraj Constructions is hereby allowed by way of remand.

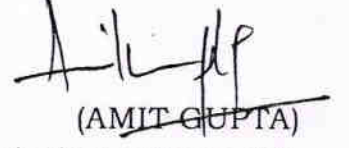


सत्यापित/ATTESTED

अधीक्षक/SUPERINTENDENT
सीमा शुल्क (अपील), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD.

F. No. S/49-12/CUS/MUN/2024-25

1700


(AMIT GUPTA)

Commissioner (Appeals),
Customs, Ahmedabad

Date: 24.06.2025

By Registered post A.D/E-Mail

To,
M/s. Suraj Constructions
1st Floor, No. 91,
Poonamalle High Road, Egmore,
Chennai 600 084

Copy to:

1. The Chief Commissioner of Customs, Ahmedabad zone, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House, Mundra.
3. The Deputy / Assistant Commissioner of Customs, Custom House, Mundra.
4. Guard File.