



सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद  
OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD  
चौथी मंज़िल 4th Floor, हडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड़ Ishwar Bhuvan Road,  
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009.  
दूरभाष क्रमांक Tel. No. 079-26589281  
DIN- 20251171MN000051085B

क	फ़ाइल संख्या FILE NO.	S/49-173/CUS/AHD/2024-25
ख	अपीलआदेश संख्या ORDER-IN- APPEAL No. (सीमाशुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTM-000-APP-359-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	20.11.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	Order – In – Original No. 05/DC/ICD-SND/2024-25 dated 29.06.2024 passed by the Deputy Commissioner of Customs, ICD-Sanand.
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	20.11.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	<b>Appellant:</b> Yizumi Precision Machinery India Pvt. Ltd. Plot No. 1062-63, GIDC-II, Sanand – 382110.

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 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 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 (यथासंशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्षक 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 :				
	<table> <tr> <td>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td><td>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</td></tr> <tr> <td>दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td><td>2<sup>nd</sup> Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td></tr> </table>	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 <sup>nd</sup> Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
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 <sup>nd</sup> 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**

1. M/s. Yizumi Precision Machinery India Pvt. Ltd. (hereinafter referred as 'the appellant') has filed the present appeal under Section 128 of the Customs Act, 1962, against the Order-In-Original No. 05/DC/ICD-SND/2024-25 dated 29.06.2024 (hereinafter referred to as the 'impugned order') passed by the Deputy Commissioner of Customs, ICD, Sanand (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that during the period of **July-2019 to March-2023** the appellant has filed Bills of Entry for import of '**Oil Filters**' by classifying them under Customs Tariff Item **84212900**, paid Basic Customs Duty @7.5%, as applicable to the said classification and got cleared the goods. Later, Customs Department has adopted a view that the imported goods merit classification under CTI **84212300**, which attracts BCD @10%. Therefore, a Show Cause Notice dated **29.02.2024** has been issued proposing to demand the duty of **Rs. 3,85,675/-** with interest and penalty under the provisions of Section 28(4), Section 28AA and Section 114A of the Customs Act, 1962. The said SCN has been adjudicated vide the impugned order.

3. In the impugned order, tariff entries of CTH 8421 have been reproduced. The competing tariff entries are as under:

CTI	Description	Rate of BCD
8421 23 00	Oil or petrol-filters for internal combustion engines	10%
8421 29 00	Other	7.5%

The importer contended that the Oil Filters imported by them were meant for Injection Moulding Machines, not meant for Internal Combustion Engines and therefore, not classifiable under CTI 8421 2300. In this regard, the adjudicating authority has observed and held that the imported Oil Filters were being used in Injection Moulding Machine just for removing impurities, contaminants and debris from oil, ensuring that only clean and filtered oil circulates through the concerned components, as they are being used in Internal Combustion Engines. He further observed that the imported filters filter oil going in the IC engine and therefore, can be considered as oil filters for Internal Combustion Engines and mere fact that the 'Oil filters' used for the very same purpose in other machine do not change its original classification of 8421 23. Further, merely because the fact that it is fitted with Injection Moulding Machine, the facts cannot be ignored that such Oil filters are not capable for being used in the Internal Combustion Engines. In the impugned order, it has been further observed that the noticee has mis-classified 'oil filters' under CTI - 84212900





(Others) with intention of paying lower Customs Duty instead of correctly classifying them under CTI - 84212300.

4. However, the adjudicating authority agreed with the noticee's plea that there is some mistake in Annexure-A to the SCN, which includes Bills of Entry filed by other importers, viz. M/s. Suzuki Motors Gujarat Pvt. Ltd. and M/s. Vee Rubber India Pvt. Ltd., in the demand raised against the noticee/appellant. Therefore, he dropped the demand to the tune of **Rs. 1,714/-** pertaining to the said two other importers.

5. In view of the above, the adjudicating authority has passed the following order (gist):

- i. Rejected classification of 'Oil filters' under CTH 84212900 and held that the said goods fall under CTH 84212300.
- ii. Confirmed the demand of **Rs. 3,83,962/-** under Section 28(4) of the Customs Act, 1962 read with Section 3(7) & 3(9) of the Customs Tariff Act, 1975.
- iii. Dropped the demand of **Rs. 1,714/-** as discussed hereinabove.
- iv. Confirmed demand of interest under Section 28AA of the Customs Act, 1962.
- v. Imposed a penalty of **Rs. 3,83,962/-** plus penalty equal to interest under Section 114A of the Customs Act, 1962.

6. Being aggrieved, the appellant has filed the present appeal. The appellant has submitted that they are in no manner deal with any kind of internal combustion engines. They are engaged in manufacture of Injection Moulding Machines only. For hydraulic part of those machines, oil is required. To keep such oil dust/dirt free, distinct types of precision oil filters viz. Net type oil filter, By-pass oil filter, Return oil filter, Oil absorption filter, Oil suction filter, Pipeline oil filter etc. are required. As regards the allegation of suppression of facts and mis-declaration, the appellant contented that the Bills of Entry describe the goods as 'Oil Filters' and no other description has been discussed/suggested by the adjudicating authority; that without specifying how the appellant suppressed any information, just for sake of invoking extended period of limitation, it is recorded in the impugned order that the appellant deliberately mis-declared the description and classification of goods, and wrongly claimed lower rate of duty.

7. The appellant further contented that part of demand is barred by limitation. In this case the SCN was issued on 29.02.2024 whereas, the impugned goods were imported during July-2019 to March-2023. Thus, the part of demand has been initiated after expiry of normal period of two years as prescribed under Section 28(1) of the Customs Act, 1962. The appellant further submitted that the impugned goods were assessed and examined by



Department prior to granting 'Out of charge'/clearance; that the only dispute is incorrect claim of classification of impugned goods; that the department must establish fraud, collusion, wilful misstatement, suppression facts or contravention of any statutory provision with intent to evade payment of duty by cogent evidence. In this regard, the appellant relied upon the Judgment of Hon'ble Gujarat High Court in the case of **Commissioner of C.Ex. & Customs, Vadodara-II Vs. Orbit Fabrics Ltd.** [2011 (264) E.L.T. 53 (Guj.)].

8. In view of the above submissions, the appellant has requested to set aside the impugned order with consequential relief.

9. The appellant has submitted a copy of the T.R.6 Challan No. 1543 dated 17/18.09.2024 towards pre-deposit of Rs. 30,000/- under the provisions of Section 129E of the Customs Act, 1962.

10.1 In the Form No. C.A.-1, the appellant has shown the date of communication of the impugned order dated 29.06.2024, as '12.07.2024'. Whereas, the appeal dated 26.08.2024 has been received in this office on 01.10.2024. Thus, the present appeal has been received after 81 days from the date of communication of the impugned order and so, there is a delay of 21 days beyond the normal period of 60 days, as prescribed for filing of appeal under Section 128. The appellant has applied for condonation of delay in filing of appeal.

10.2 As regards condonation of delay up to a period of 30 days in filing appeals, I refer the Judgment of Hon'ble Supreme Court in the case of *Collector, Land Acquisition Anantnag and Another vs. Mst. Katiji and Others reported in 1987 (28) ELT 185 (SC)*, wherein it has been held that a justifiable liberal approach should be adopted in cases of condonation of delay. In view of the above position, I condone the delay of 21 days in filing the Appeal as per the first proviso to Section 128(1) of the Customs Act, 1962, and admit the appeal for disposal on merits.

11. One set of the appeal memorandum was forwarded to the adjudicating authority for comments vide this office letter F.No. S/49-173/CUS/AHD/2024-25/3797 dated 11.11.2024, but no reply thereof has been received. So, I proceed to the decide the appeal on the basis of documents submitted by the appellant.

#### **PERSONAL HEARING**

12. Personal Hearing in this matter were fixed on 12.08.2025. The appellant, vide letter dated 08.08.2025, sought adjournment. Another Personal Hearing was fixed on 15.10.2025.





Vide email of the same date, the appellant has requested to reschedule it after 10.11.2025. Finally, a Personal Hearing was held on 13.11.2025, which has been attended by Shri. K. J. Kinariwala, Consultant, on behalf of the appellant. He reiterated the submissions made at the time of filing appeal.

### **FINDINGS**

13. I have carefully gone through the impugned order, appeal memorandum filed by the appellant viz. M/s. Yizumi Precision Machinery India Pvt. Ltd. and written as well as oral submissions made by or on behalf of the appellant. The issues to be decided in this case are as under:

**Issue-1:** Whether Oil Filters imported by the appellant are classifiable under CTI 84212300 as held in the impugned order or under CTI 84212900 as self-assessed in the impugned Bills of Entry.

**Issue-2:** Whether part demand of duty, to the extent it is raised beyond the normal period of limitation of two years, as prescribed under Section 28(1), is barred by limitation or not.

**Issue-1:** Whether Oil Filters imported by the appellant are classifiable under CTI 84212300 or under CTI 84212900

14. Undisputedly, CTI 84212300 covers Oil or petrol filters for internal combustion engines. In the present case, there is no evidence to the effect that the imported Oil Filters are meant for international combustion engines. The appellant has repeatedly contended before the adjudicating authority as well as in this appeal to the effect that they are engaged in manufacture of Injection Moulding Machines and the imported Oil Filters are for use in hydraulic part of such machines. In the impugned order also, there is no denial to the fact that the imported oil filters were meant for use in Injection Moulding Machines. However, the adjudicating authority has changed the classification by observing that such oil filters are capable for being used in internal combustion engines. No evidence suggesting use of the imported oil filters in internal combustion engines has been relied upon in the SCN or discussed in the impugned order. Under this situation, I am unable to agree with the view of the adjudicating authority that the imported oil filters are classifiable under CTI 84212300 which covers 'Oil or petrol-filters for internal combustion engines'.

15. Further, after going through Para 10 of the Show Cause Notice dated 29.02.2024, I find that there is no proposal in the SCN for rejection of the declared classification and for re-classifying the impugned goods. Even though, the adjudicating authority has rejected the

classification and ordered to reclassify the same in Para 15(i) of the impugned order. In absence of any proposal in the SCN, the order of the adjudicating authority to reject the declared classification under CTI 84212900 and holding the goods falling under CTI 84212300 is not legal and proper.

16. As the classification determined under the impugned order is not sustainable on merits, the classification adopted by the appellant needs to be upheld. Thus, I hold that the Oil Filters imported by the appellant vide impugned Bills of Entry are classifiable under CTI 84212900.

**Issue-2: Whether part demand of duty, to the extent it is raised beyond the normal period of limitation of two years, is barred by limitation or not**

17. From the statutory provisions of Section 28 of the Customs Act, 1962, it is very clear that for issuing SCN under Section 28(4), there should be "collusion" or "wilful mis-statement" or "suppression facts" on part of the appellant. In the present case, there is no charge of any "collusion" or "wilful mis-statement" on part of the appellant. Neither any Statement has been recorded nor any investigation has been conducted before invoking extended period of limitation. I am of the view that merely claiming different classification than the classification later adopted by Department, does not amount to suppression of facts and willful mis-statement, so far as description and other particulars of goods are correctly declared.

18. In this regard, the appellant relied upon the Order dated 09.12.2010 of Hon'ble High Court of Gujarat in the case of **Commissioner of C.Ex. & Customs, Vadodara-II Vs. Orbit Fabrics Ltd.** [2011 (264) E.L.T. 53 (Guj.)]. Extracts from the said Order are as under:

*"7. .... The assessee had rightly or wrongly claimed liability to pay duty at a particular rate. At the time of assessing the bill of entry, it is for the concerned officer to ascertain the actual duty liability. Mere non-mentioning of the serial number under which the goods would fall cannot be equated with suppression, because it was for the concerned officer to even otherwise verify from the description of the goods as to under which item number the same would fall and assess the duty liability accordingly. The concerned officer having failed to do so, the onus cannot be thrown on the assessee.*

*8. In the aforesaid backdrop, it cannot be said that there was any wilful misstatement or suppression on the part of the assessee so as to invoke the extended period of*





*limitation. The Tribunal, was therefore, justified in holding that the show cause notice was time-barred and that no case was made out for invoking the extended period of limitation."*

The ratio of the above Order of Hon'ble High Court of Gujarat can be applied to the present case also.

19. On the issue of invoking extended period of limitation on account of misclassification of goods, I further rely upon the following Orders of Hon'ble Supreme Court (gist):

19.1 **NORTHERN PLASTIC LTD. Versus COLLECTOR OF CUSTOMS & CENTRAL EXCISE [1998 (101) E.L.T. 549 (S.C.)]** [Civil Appeal No. 4196 of 1989 with C.A. No. 3325 of 1990, decided on 14-7-1998]

Exemption - Description of goods given correctly and fully in bill of entry/classification declaration - Laying claim to some exemption, whether admissible or not, is a matter of belief of assessee and does not amount to mis-declaration - Sections 25(1) and 111(m) of Customs Act, 1962.

19.2 **DENSONS PULTRETAKNIK Versus COMMISSIONER OF CENTRAL EXCISE [2003 (155) E.L.T. 211 (S.C.)]** [Civil Appeal No. 9516 of 1995 with C.A. Nos. 7635 of 1995 and 2461, 2463-65 & 2471 of 1996, decided on 15-1-2003]

Demand - Limitation - Classification claimed by appellant on the ground of goods manufactured by it being other articles of plastic - However, merely claiming classification under sub-heading 3926.90 of Central Excise Tariff Act, 1985 not amounts to suppression of facts - Extended period of limitation not invocable - Section 11A(1) of Central Excise Act, 1944.

20. Further, in the self-assessment regime, following decisions of higher forums are squarely applicable to the present case.

20.1 **SIRTHAI SUPERWARE INDIA LTD. Versus COMM. OF CUSTOMS, NHAVA SHEVA-III [2020 (371) E.L.T. 324 (Tri. - Mumbai)]** [Final Order No. A/86791/2019-WZB, dated 10-10-2019 in Appeal No. C/85603/2017]

Demand - Limitation - Extended period - Misdeclaration of facts - By giving correct description on the documents relating to import clearance, burden of making correct declaration on the Bill of Entry discharged by appellants - Any error in classification or

exemption claimed on Bill of Entry cannot be misdeclaration with the intention to evade payment of duty - Extended period of limitation not invocable - Demand which falls within the normal period of limitation only needs to be upheld - Matter remanded back to Commissioner for re-determination and re-quantification of demand which can be made by denying the exemption under Notification No. 46/2011-Cus. to the appellants within the normal period as provided by Section 28(1) of Customs Act, 1962. [paras 5.5, 5.1]

Confiscation and penalty - Customs - Fact that the goods correspond to declaration in respect of the description and value is sufficient to take the imported goods away from the application of Sections 111(m) and 111(o) of Customs Act, 1962 - Confiscation of goods and imposition of penalty under Section 112(a) *ibid* cannot be sustained - Appellant not having made any misdeclaration with intent to evade payment of duty, penalty not imposable under Section 114A of Customs Act, 1962. [paras 4.9, 4.10]

**20.2 MIDAS FERTCHEM IMPEX PVT. LTD. Versus PRINCIPAL COMMISSIONER OF CUSTOMS, ACC (IMPORT), NEW DELHI [(2023) 4 Centax 73 (Tri.-Del)]** [Final Order Nos. 50027-50031 of 2023 in Appeal Nos. C/52239/2021 with C/52240-52243/2021, decided on 13-1-2023]

**Self-assessment** - Scope of - There is no separate mechanism - It is also a form of assessment - As importer is not expert in assessment and can make mistakes, there is provision for reassessment by officer - Although Bill of Entry requires importer to make true declaration and confirm its contents as true and correct, columns for classification, exemption notifications claimed and valuation are matters of self-assessment and are not matters of fact - Claim of wrong classification, ineligible exemption or valuation not fully as per law, or wrong self-assessment by importer will not amount to mis-declaration, mis-statement or suppression - Section 17 of Customs Act, 1962. [para 50]

**20.3 LEWEK ALTAIR SHIPPING PVT. LTD. Versus COMMISSIONER OF CUS., VIJAYAWADA [2019 (366) E.L.T. 318 (Tri. - Hyd.)]** [Final Order Nos. A/30053-30056/2019, dated 9-1-2019 in Appeal Nos. C/30608-30609/2017, C/30230 & 30234/2016]

Confiscation and penalty - Misdescription of goods - Mention of wrong tariff or claiming benefit of an ineligible exemption notification cannot form the basis for confiscation of goods under Section 111(m) of Customs Act, 1962 - Therefore, confiscations and redemption fines set aside - Consequently no penalties imposable under Section 112(a) of Customs Act, 1962. [para 7]

Penalty under Section 114AA of Customs Act, 1962 - Claiming an incorrect classification or the benefit of an ineligible exemption notification not amounts to making a false or incorrect statement, it being not an incorrect description of goods or their value but only a claim made by assessee - Thus, even if the appellant makes a wrong classification or claims ineligible exemption, he will not be liable to penalty under Section 114AA of Customs Act, 1962. [para 7]





Further, I find that the Civil Appeal Diary No. 19639 of 2019 filed by Commissioner of Customs, Vijayawada against the above-mentioned Order of Hon'ble CESTAT has been dismissed by the Hon'ble Supreme Court on 05.07.2019 by holding that there is no legal infirmity in the impugned judgment and order warranting Supreme Court's interference under Section 130E(b) of the Customs Act, 1962. [**Commissioner v. Lewek Altair Shipping Pvt. Ltd. - 2019 (367) E.L.T. A328 (S.C.)**].

20.4 I also rely upon the order of Hon'ble jurisdictional CESTAT, Ahmedabad, in the case of **Hindustan Unilever Ltd. Vs. Commissioner of Customs, Mundra [(2023) 12 Centax 171 (Tri-Ahmd)]**, wherein it has observed and held as follows (underline supplied):

*"4.4 We also find that no conduct or intent of the Appellant is found to be malafide as they submitted all the information and also the information required during assessment. Hence the demand raised for the period 26-11-2013 to 4-8-2015 covered under 106 Bill of Entry out of 886 are barred by limitation and considered to be assessed finally. The goods were not found to be different than declared and the value was based on transfer pricing and hence provisions of Section 111 (m) is also not applicable. The remaining BEs were cleared by the customs after verification and scrutiny of goods and import documents and hence the same also do not come under the purview of Section 111 (m)."*

Against the above-mentioned Final Order in the case of **Hindustan Unilever Ltd.** (supra), the Commissioner of Customs, Mundra, had filed a Civil Appeal Diary No. 32747 of 2023. Vide Order 22.09.2023, reported as **Commissioner of Customs, Mundra Vs. Hindustan Unilever Ltd. [(2023) 12 Centax 172 (SC)]**, Hon'ble Supreme Court has dismissed the said Civil Appeal by observing that they are not inclined to interfere with the order impugned in that appeal.

21. **In the case on hand**, the appellant has declared and submitted all the information required for assessment and there is no allegation that any of the said information was false, fabricated or mis-leading. The appellant has declared the goods as 'Oil Filters' and the impugned order does not change description of the goods. Thus, there is no dispute about description of the impugned goods. If at the time of import, Customs Department was of the view that the imported goods were classifiable under different Tariff Item, the Bills of Entry could have been re-assessed under the provisions of Section 17(4) of the Customs Act, 1962, as amended w.e.f. 08.04.2011, which are as under:



*"(4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the Proper Officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods."*

In view of the above statutory provision, I find that the proper officer could have re-assessed the duty under Section 17(4) of the Customs Act, 1962, but it was not done. If the re-assessment was not done due to any reason, the Customs Department could have issued a Show Cause Notice within normal period of limitation of two years under the provisions of Section 28(1) of the Customs Act, 1962. But, merely for the reason that the normal period of two years had been passed when the short-payment was detected, it is not proper to allege willful mis-declaration on part of the appellant just to cover the extended period of limitation.

22. In view of the above discussion and findings, I am of the considered view that when description and other particulars of imported goods have been declared correctly, merely due to the reason of adopting different classification of goods by the importer, the extended period of limitation cannot be invoked.

23. In view of the above position, I am of the view that invocation of extended period of limitation under Section 28(4) for demand of Customs duty is not sustainable in the present case. However, demand of duty to the extent it relates to the Bills of Entry filed within two years from the date of SCN is not time-barred by applying provisions of Section 28(10B) of the Customs Act, 1962. The said Section 28(10B) states that a notice issued under sub-section (4) shall be deemed to have been issued under sub-section (1), if such notice demanding duty is held as not sustainable in any proceeding under this Act, including at any stage of appeal, for the reason that the charges of collusion or any wilful misstatement or suppression of facts to evade duty has not been established, the amount of duty and the interest thereof shall be computed accordingly, i.e. as per provisions of Section 28(1). However, in the present case, the entire demand of duty is not sustainable on merits as discussed hereinabove, and therefore, part demand of duty to the extent it relates to normal period of two years also, cannot be upheld. When demand of duty itself is not sustainable, interest and penalty are also not sustainable in this case.

24. In view of the above discussion and findings, I pass the following order.





**Order**

I set aside the Order-In-Original No. 05/DC/ICD-SND/2024-25 dated 29.06.2024 passed by the Deputy Commissioner of Customs, ICD, Sanand, and allow the appeal filed by M/s. Yizumi Precision Machinery India Pvt. Ltd. with consequential relief, in accordance with law.



*[Handwritten signature]*

(AMIT GUPTA)  
Commissioner (Appeals),  
Customs, Ahmedabad

F.No. S/49-173/CUS/AHD/2024-25

Date: 20.11.2025

By E-mail (As per Section 153(1)(c) of the Customs Act, 1962)

To

Yizumi Precision Machinery India Pvt. Ltd.  
Plot No. 1062-63, GIDC-II, Sanand – 382110.  
(email: [info.ind@yizumi.com](mailto:info.ind@yizumi.com) [ramesh@yizumi.com](mailto:ramesh@yizumi.com) )

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.  
(email: [ccoahm-guj@nic.in](mailto:ccoahm-guj@nic.in) )
2. The Principal Commissioner of Customs, Custom House, Ahmedabad.  
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3. The Deputy/Assistant Commissioner of Customs, ICD-Sanand.  
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4. Shri. K. J. Kinariwala, Consultant, Ahmedabad (email: [kjkinariwala@gmail.com](mailto:kjkinariwala@gmail.com) )
5. Guard File.

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