



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद
OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,
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DIN - 20250671MN0000555A12

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| क | फ़ाइल संख्या FILE NO. | S/49-317/CUS/AHD/23-24 S/49-340/CUS/AHD/23-24 |
| 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) | AHM-CUSTM-000-APP-074-075-25-26 |
| ग | पारितकर्ता PASSED BY | Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad |
| घ | दिनांक DATE | 16.06.2025 |
| ङ | उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF SPEAKING ORDER / ORDER-IN-ORIGINAL NO. / BILL OF ENTRY | 1. 28/DC/ACC/OIO/CONCORD/2023-24, dated 12.09.2023 2. 7135538, dated 31.07.2023 (Assessed on 16.10.2023) |
| च | अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON: | 16.06.2025 |
| छ | अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT: | M/s. Concord Enviro Systems Ltd, 101, HDIL Towers, Anant Kanekar Marg, Bandra (E), Mumbai-400051 |



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| 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 (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 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/-. |



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| 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 & Service Tax Appellate Tribunal, West Zonal Bench</td></tr> <tr> <td>दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td><td>2nd 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 nd 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 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 जहाँ किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रुपए या उससे कम हो तो एक हजार 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 जहाँ किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रुपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पाँच हजार 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 जहाँ किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रुपए से अधिक हो तो; दस हजार 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, जहाँ शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के %10 अदा करने पर, जहाँ 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. Concord Enviro Systems Ltd, 101, HDIL Tower, Anant Kanekar Marg, Bandra East Mumbai-400051 (hereinafter referred to as 'the Appellant') have filed 02 (two) appeals as per details given in Table – I below challenging the Speaking Order (Order-In-Original) and Assessment made in the Bill of Entry (hereinafter referred to as 'the impugned orders') by the Deputy Commissioner, Air Cargo Complex, Customs, Ahmedabad (hereinafter referred to as 'the adjudicating authority').

TABLE - I

| Sr. No. | Appeal No. | Speaking Order No. & Date / Order-In-Original (OIO) No. & Date / Bill of Entry & Date | Issued by | Bill of Entry No. & Date |
|---------|-------------------------|---|--|--------------------------|
| (1) | (2) | (3) | (4) | (5) |
| 1. | S/49-317/CUS/AHD/ 23-24 | 28/DC/ACC/OIO/CONCORD/ 2023-24, dated 12.09.2023 (Corrigendum dated 12.10.23) | Deputy Commissioner, Customs, Air Cargo Complex, Ahmedabad | 6973682, 21.07.2023 |
| 2. | S/49-340/CUS/AHD/ 23-24 | 7135538, dated 31.07.2023 (Assessed on 16.10.2023) | Deputy Commissioner, Customs, Air Cargo Complex, Ahmedabad | 7135538, 31.07.2023 |

2. There are two appeals under consideration. Appeal mentioned at Sr. No. 1 of the Table – I above, have been filed by the Appellant against the Speaking Order (Order-in-original) No. 28/DC/ACC/OIO/CONCORD/2023-24, dated 12.09.2023 passed by the Deputy Commissioner, Customs, Air Cargo Complex, Ahmedabad. The appeal mentioned at Sr. No. 2 of the Table – I above, have been filed by the Appellant challenging the assessment made in the Bill of Entry No. 7135538, dated 31.07.2023 by the Deputy Commissioner, Customs, Air Cargo Complex, Ahmedabad. Since the issues involved in both the cases are the same, I take up both the appeals together for consideration and disposal.

2.1 Facts of the case, in brief, are that the Appellant has filed Bill of Entry No. 6973682, dated 21.07.2023 under Section 46 (1) of Customs Act 1962, through their Customs Broker M/s. Parthiv Vijaykumar Dave, seeking clearance for home consumption the goods imported vide Invoice No. CE/INV/23-24/002398, dated 15.07.2023 as "FM ULTRA FILTRATION MEMBRANE TYPE: P1-FLEX" (hereinafter also referred to as "said goods / subject goods / imported goods") self-assessing the same in terms of Section 17 (1) of Customs Act 1962 under Customs Tariff Item 84219900 inter alia, claiming exemption of duty as per Sr. 8768 of Notifications No. 22/2022-Customs, dated 30.04.2023

2.2 The Bill of Entry was marked for examination by Customs Automated risk management system. Upon examination it was observed that imported goods are thin porous sheets made up of material which felt like plastic.



2.3 Facts of the case, as per the appeal memorandum is that the Appellant had filed another Bill of Entry No. 7135538, dated 31.07.2023 for import of same goods viz., Membranes and classified the imported goods under CTH 7421 9900, claiming exemption from payment of Basic Customs Duty under Notification No. 22/2022 – Customs, since the goods were imported from United Arab Emirates (UAE). Due to dispute in classification, the clearance of the goods imported under Bill of Entry dated 31.07.2023 was put on hold and were not permitted to be cleared.

2.4 The Appellant in support of the classification of the imported goods under CTI 8421 9900 inter alia, informed vide letter dated 05.08.2023 that:-

- The imported goods are not a one-time consumable, such as in the case of a filter paper for filtering or cloth normally used in a laboratory, but is a part of filtering and purifying system, without which the filtering system cannot function. Thus, the ultrafiltration membrane is used solely and principally in filtering system. It is submitted that filtering systems by themselves have a composite character and they clearly fall under Chapter Heading 8421. The part thereof also falls under Chapter 84. Further, whatever be the constituent material membrane, as long as the said membrane is used as a filter cartridge and is replaced over a period of time so that the system continues to be working, it would be classified as "parts".
- The said membranes are cut to specific size and are rectangular in shape which are fitted together to form a membrane cushion which ultimately purifies the water. The said imported membranes are not for general purpose use and cannot be used by any other person or in other filtering machine.
- The Hon'ble Tribunal in the case of Pure & Cure Technology vs Commr. of Cus. (Import), Nhava Sheva, 2019.(369) ELT 993 (Tri.-Mumbai) held that membrane is classifiable under heading 84219900.
- The imported goods are correctly classified under Chapter 84219900 and the benefit of NIL BCD under CEPA is admissible to us. They are not liable to pay any additional duty.
- The membrane is made up of 20% Non-woven Polyester and 80% Cast Polysulfone. The function of the membrane in the water filter is to separate bacteria, viruses and fine solids in the water and waste water with high filtering potential. The said membranes are porous which filters all the particles bigger than the size of the pores from the water.

2.5 A personal hearing in respect of the matter was held on 22.08.2023 at 12:00PM. The authorized representative Shri Atul Kumar Mishra, Advocate attended the Personal Hearing on behalf of the Appellant and reiterated the contents of their written submission dated 05.08.2023. He stated that they do not want any SCN in the matter and that they would inform, further in this regard by 24.08.2023. Subsequently a letter dated 04.09.2023 was received from Appellant on 05.09.2023 whereby it was requested to assess the bill of entry as per provisional assessment rules and regulations.

2.6 The Appellant in their request for provisional assessment did not mentioned

any specific provision of Customs Act 1962 or Rules made thereunder for doing assessment on provisional basis nor any reason doing provisional assessment of imported goods was mentioned by the Appellant. The provisional assessment can be resorted to if importer is unable to make self-assessment under Section 17 (1) or the proper officer requires the goods to be tested or requires further documents, information or enquiry to be made. In the instant case the Appellant has already made self-assessment under Section 17 (1) by classifying the imported goods under CTI 8421 9900. Since, no further information / documents etc. were required from Appellant and no further enquiry was contemplated, the adjudicating authority saw no reason to resort to provisional assessment in the present case. As such the assessment was required to be done under provisions of Section 17 of Customs Act 1962.

2.7 Consequently the adjudicating authority passed an impugned Speaking Order wherein the adjudicating authority ordered as under:-

- (i) He rejected the classification of imported goods under CTI 84219900 and ordered to classify the imported goods under CTI 39269099 of Customs Tariff;
- (ii) He ordered that the imported goods are not eligible for exemption under Notifications No. 22/2022-Customs dated 30.04.2022 in respect of CEP Agreement between India & UAE and ordered to assess the goods under CTI 39269099, BCD @15%, and IGST @18% as per Sr. No. III111 of Schedule III of Notification No. 01/2017-GST and SWS @10%;
- (iii) He imposed penalty of Rs. 20,000/- under Section 117 of Customs Act 1962 for mis-declaration of Customs Tariff Classification thereby contravening the provisions of Section 46 of Customs Act 1962;

2.6.1 A corrigendum to the impugned Speaking Order was issued on 12.10.2023, wherein the Para (ii) of the operative part of the order was amended as under:-

- (ii) He ordered that the imported goods are not eligible for exemption under Notifications No. 22/2022-Customs dated 30.04.2022 in respect of CEP Agreement between India & UAE and ordered to assess the goods provisionally under Section 18 (1) of the Customs Act, 1962 under CTI 39269099, BCD @ 15%, IGST @ 18% as per Sr. No. III111 of Schedule III of Notification No. 01/2017-GST and SWS @10% as the SVB matter of the Appellant was pending for finalization at the end of the competent authority and they have submitted SVB Bond 2002129505, dated 22.05.2023;

2.7 Pursuant to the issuance of impugned Speaking Order dated 12.09.2023, the Bill of Entry No. 6973682, dated 21.07.2023 was finally assessed on 18.09.2023 and a total duty amounting to Rs. 8,27,852/- (BCD – Rs. 3,28,124.30 + SWS – Rs. 32,812.40 + IGST – Rs. 4,58,718/-) was assessed as payable on the imported goods along with interest of Rs. 9,900/- and penalty of Rs. 20,000/-. The Appellant deposited the balance



amount of Rs. 4,60,065/- vide Challan dated 18.09.2023.

2.8 Subsequently, to the passing of the Speaking Order dated 12.09.2023, the Appellant vide letter dated 22.09.2023 waived the requirement of the personal hearing in relation to the Bill of Entry No. 7135538, dated 31.07.2023 and requested the adjudicating authority to release the imported goods. In spite of filing of the above letter and oral enquiry, the adjudicating authority did not proceed with the assessment of the Bill of Entry dated 31.07.2023. Since, there was still inaction on the part of the adjudicating authority, the Appellant requested to pass a Speaking Order in respect to the Bill of Entry dated 31.07.2023 similar to the one passed for Bill of Entry No. 21.07.2023. However, the Appellant was informed that since the goods imported under both the Bills of Entry are same, no Speaking Order shall be passed for the second Bill of Entry dated 31.07.2023 and the findings of the said Order dated 12.09.2023 shall apply for the Bill of Entry dated 31.07.2023.

2.9 Accordingly, the adjudicating authority assessed the Bill of Entry No. 7135538, dated 31.07.2023 on 16.10.2023 reclassifying the imported goods under CTH 39269099 and denying the benefit of Notification dated 30.04.2022. The adjudicating authority assessed BCD @ 15%, IGST @ 18% and SWS @ 10%, provisionally since the SVB matter was pending for finalization and further imposed a penalty of Rs. 20,000/- along with interest amounting to Rs. 58,889/-. The Appellant deposited the entire duty along with penalty and interest vide Challan dated 18.10.2023 and was granted out of charge on 18.10.2023. *ibid*

3. Being aggrieved with the impugned orders, the Appellant has filed the present appeals wherein they have submitted grounds which are as under:-

- That the imported goods have been correctly classified by them under CTH 84219900 as parts of filtering machine;
- That they had imported membrane for fitting the same in water filtering machines/plants, whose function is to separate bacteria, viruses and fine solids in the water and wastewater with high fouling potential. The said membranes are porous which filter all the articles bigger than the size of the pores from the water. These membranes are not one-time consumables. They form a part of the filtering and purifying system, without which the filtering system cannot function. Thus, the membrane is used solely and principally in filtering system;
- That the said membranes imported by them are cut into specific size and rectangular shape to specifically fit the filtering system of the Appellant. The said imported membranes are not for general use and cannot be used by any other person in any other filtering machine.
- That the adjudicating authority, referring to the product descriptions available on the Appellant's and independent third-party websites, has, in paragraph 8 (b) of

the impugned order, observed that membrane modules / elements are the constituent parts of any filtration system / equipment and the membranes are used in manufacture of such membrane modules / elements. Thus, even the department accepts that the membranes are ultimately part of filtering machine;

- Whatever be the constituent material membrane, as long as the said membrane is used as a filter cartridge and is replaced over a period of time so that the system continues to be working, it would be classified as "parts" and would fall under CTH 8421. They relied upon the decision in the case of *M/s. Pure & Cure Technology vs Commr. Of Cus. (Import), Nhava Sheva, 2019 (369) ELT 993 (Tri.-Mumbai)*, the Hon'ble Tribunal has categorically held that membrane, being an essential part of filtering systems, merits classification under CTH 8421 9900. The relevant extract of the said judgment is reproduced as under:

"7. We find that while discarding the said argument in the impugned order, the Ld. Commissioner (Appeals) recording reasons observed that membrane no doubt play a crucial role in purifying water, but the question is one whether the membrane itself straightaway purifies the water. Then referring to the definition of equipment as defined under Oxford Dictionary, the Ld. Commissioner (Appeals) concluded that the membrane cannot be construed as water purifying equipment, accordingly not eligible to the benefit of notification. Further analyzing the classification declared by the appellant and alleged in the show cause notice, the Ld. Commissioner (Appeals) observed that the imported membrane elements merits classification under CTH 84219900 rather than 84212190 which claimed by the appellant as more specific; when the imported item was considered on article meant as purifying machinery or apparatus. We do not find any discrepancy in the observation of the Ld. Commissioner (Appeals). Hence, the same does not warrant any interference."

- They also relied on the judgment in the case of *Commissioner of Customs, Madras vs Titanium Equipments & Anode Mfg. Co. Ltd., 1999 (107) E.L.T. 112 (Tribunal)* wherein it is held as under:

"5. We have carefully considered the arguments on both sides. We find that the item is not one time consumable in the sense of filter paper for filtering or cloth normally used in a laboratory but is a part of filtering and purifying system. Such a filtering and purifying system cannot work without this part and therefore it is an essential part. We have also seen the copy of catalogue produced which clearly shows that this is a high technology product where the element is vacuum sealed and used for reverse osmosis and nanofiltration system which is available in various diameters and lengths by the foreign manufacturer. It is not disputed that the element is mainly composed of polyamide. In view of these undisputed facts, we find that only one application to which these socalled filtering elements are put is to use it in a filtering system. Filtering system by themselves has a composite character and they clearly falls under Chapter Heading 8421. The part thereof also falls under Chapter 84. This is further substantiated by the said compendium of classification opinions submitted by learned



Consultant for the respondents wherein it is clearly opined that whatever be the material used as long as the item is used as a filter cartridge and is replaced over a period of time so that the system continues to be working, it would be classified under Chapter Heading 8421.99. We, therefore, find no infirmity in the impugned order and which requires us to interfere, with the same and therefore dismiss the appeal of the Revenue."

- That filtering systems, which are by themselves of composite character and made of several parts, clearly fall under CTH 8421. It is further pertinent to note that parts of such filtering systems falling under CTH 8421 are also covered by CTH 8421 itself. It is submitted that the second note to Section XVI of the Customs Tariff Act, 1975 provides that parts if suitable for use solely or principally with a particular kind of machine or with a number of machines of the same heading are to be classified with the machine. The notes read thus:

"2. Subject to Note 1 to this Section, Note 1 to Chapter 84 and to Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:

- (a) parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;*
- (b) other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517, and parts which are suitable for use solely or principally with the goods of heading 8524 are to be classified in heading 8529.*
- (c) all other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate or, failing that, in heading 8487 or 8548."*

- That the said membranes forms an essential part of the filtering system and clearly intend to principally contribute to a defined function covered under chapter heading 8421. Therefore, in view of the second note to Section XVI of the Customs Tariff Act, the imported goods shall also be classified under the same heading as the filtering machine, i.e., CTH 842;

Thus, it is submitted that filtering systems, of which the membrane forms a part, are recognized covered under the CTH and therefore, the membrane, being a part of the filtering systems shall fall under CTH 8421, more specifically CTH 84219900;

- That the adjudicating authority has erred in classifying the imported goods under the CTH 39269099 instead of CTH 84219900 and thereby denying the exemption



from payment of BCD as availed by them under Notification No. 22/2022-Customs dated 30.04.2022; that the adjudicating authority has erred in classifying the imported goods under CTH 3926 9099, which is a general entry for other articles made of plastic which are not covered under any other heading;

- That the imported membranes cannot be classified under Chapter 39 as the said membranes are specifically designed to work with / in liquid filtering or purifying machine and is a part of filtering or purifying system/machinery of Chapter 84;
- That Section Note 1 (g) of Section XVI specifically states that the parts of general use as defined in note 2 to Section XV, of base metal or similar goods of plastic (Chapter 39) are not covered under Section XVI. This is only parts of general use made of base metal or plastic are excluded from Section XVI and not specific parts. Thus, the imported goods could not have been classified under Chapter 39 (Plastics and articles thereof) as they are specifically designed to work with / in liquid filtering or purifying machine and are a part of filtering or purifying system/machinery under Chapter 84;
- That the adjudicating authority has erred in relying on the Circular No. 24/2013-Cus., dated 27.06.2013 to classify the imported membranes under CTH 3921. The adjudicating authority has erred in holding that that membrane elements or modules would not be classified under CTH 8421 but would instead be classifiable according to the tariff heading under which such items of constituent material are classifiable; that the Circular dated 27.06.2013 cannot be applied to the imported membrane in as much as the said Circular clarifies that the elements of filter are to be classified as per their constituent material. The said circular is contrary to the orders of the Hon'ble Tribunal cited supra;
- That even assuming without admitting that the classification of the imported membrane would be based on the constituent material of such imported membrane, the adjudicating authority has erred in classifying the same under CTH 3926;
- That the sheets of membrane constitute of non-woven polyester and cast polysulfone, the possible classification for the imported goods on the basis of constituent materials (in sheet form) would be either under CTH 3921 - "OVER PLANTS, SHEETS, FILM, FOILS AND STRIP, OF PLASTICS" or CTH 3926 - "OTHER ARTICLES OF PLASTICS AND ARTICLES OF OTHER MATERIALS OF HEADINGS 3901 AND 3914";
- That the adjudicating authority has erred in holding that as the imported goods are in the form of sheets but are composed of sheets of different types materials stacked to form a composite sheet, the same would be out of the scope of CTH 3921 and therefore, therefore, the same would be classified under CTH 3926;
- That the imported membranes are covered under CTH 84219900 and accordingly, they have correctly classified the same under CTH 84219900. Also, the benefit of conversion of The Notification No. 7/22/28-Cus dated 30.04.2022 is admissible to them;




- That the adjudicating authority has erred in imposing penalty of Rs.20,000/- under Section 117 of the Act for purported mis-declaration of the Customs Tariff classification thereby contravening provision of Section 46 of the Act;
- That they have correctly classified the imported membrane as parts of filter machine under CTH 24219900 and the classification adopted by the adjudicating authority is erroneous;
- That there was no misdeclaration of the Customs Tariff classification of the imported membrane and contravention of Section 46 of the Act;
- Therefore, in view thereof, no event penalty under Section 117 of the Act can be imposed upon them;
- That the adjudicating authority has erred in confirming the differential duty on the basis of misclassified purported reclassification of the imported goods under CTH 3926 and by demanding differential duty with interest;
- That no differential duty is liable to be paid by them and accordingly no interest is no payable;
- The adjudicating authority has also erred in not permitting the provisional assessment under Section 18 of the Act, as requested by them.

PERSONAL HEARING:

4. Personal hearing in the matter was held on 13.05.2025 following the principles of natural justice wherein Shri S J Vyas, Advocate, appeared on behalf of the Appellant. He reiterated the submissions made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned orders passed by the adjudicating authority and the defense put forth by the Appellant in their appeal memorandum. On going through the material on record, I find that following issues are required to be decided in the present appeals which are as follows:

- (i) Whether the imported goods, "FM Ultra Filtration Membrane Type: PI Flex," are correctly classifiable under CTH 8421 9900 as parts of filtering machinery or under CTH 3926 9099 as other articles of plastics;
- (ii) Consequently, whether the Appellant is eligible for the benefit of Notification No. 22/2022-Customs dated 30.04.2022;
- (iii) Whether the imposition of penalty under Section 117 and demand for differential duty and interest are justified.

5.1 Being aggrieved, the Appellant has filed the appeal mentioned at Sr. No 1 of the Table – I above, on 06.11.2023. The date of communication of the Speaking Order dated 12.09.2023 has been shown as 12.09.2023. As regards the appeal mentioned at



Sr. No. of the Table – I above, the Appellant have filed the appeal on 21.11.2023. 27.03.2024. . The date of communication of the impugned Bill of Entry No. 7135538 dated 31.07.2023 has been shown as 16.10.2023. Therefore, both the appeals have been filed within normal period of 60 days, as stipulated under Section 128 (1) of the Customs Act, 1962. Further, the Appellant has paid the entire duty, as assessed as payable on the imported goods imported vide Bill of Entry No. 6973682, dated 21.07.2023 and No. 7135538, dated 31.07.2023, thereby fulfilling the requirement of pre-deposit of filing the appeal as envisaged under the Section 129 E of the Customs Act, 1962. As the both the appeals have been filed within the stipulated time-limit and complies with the requirement of Section 129E of the Customs Act, 1962, the appeals have been admitted and being taken up for disposal on merits.

6. The central point of dispute revolves around the classification of the imported membranes. The Appellant contends classification under CTH 8421 9900, while the adjudicating authority re-classified them under CTH 3926 9099. CTH 8421 covers "Centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus, for liquids or gases" and its parts. CTH 3926 is a residuary heading for "Other articles of plastics and articles of other materials of headings 3901 to 3914."

6.1 The Appellant has consistently argued that the membranes are not mere plastic sheets but are specifically designed and function as essential components of water filtering/purifying systems. They are used to separate bacteria, viruses, and fine solids, and the filtering system cannot operate without them. This functional specificity is crucial for classification.

6.2 Applicability of Section Note 2 to Section XVI of the Customs Tariff Act, 1975:

"Section Note 2 to Section XVI of the Customs Tariff Act, 1975, provides clear guidance for the classification of parts of machines. It states:

"2. Subject to Note 1 to this Section, Note 1 to Chapter 84¹ and to Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:

xxx

(b) other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate."

6.3 In the present case, the membranes are clearly suitable for use solely or principally with water filtering / purifying machinery falling under CTH 8421. Therefore, as per this Section Note, they should be classified along with the machines they are designed



for, i.e., under CTH 8421.

6.4 The Appellant's reliance on judicial precedents is well-founded and directly applicable to the facts of this case.

Pure & Cure Technology vs. Commissioner of Customs (Import), Nhava Sheva, 2019 (369) ELT 993 (Tri.-Mumbai):

This judgment, cited by the Appellant and also present in the provided snippets, specifically dealt with the classification of "membrane elements." The Hon'ble Tribunal, while upholding the Commissioner (Appeals)'s observation that the membrane itself does not straightaway purify water, ultimately concluded that the imported membrane elements merit classification under CTH 8421 9900. The relevant part of the judgment states: *"We do not find any discrepancy in the observation of the Ld. Commissioner (Appeals). Hence, the same does not warrant any interference."* This indicates that the Tribunal agreed with the classification under CTH 8421 9900 for membrane elements used in purifying machinery. The adjudicating authority's attempt to distinguish this case by stating it was about "interpretation of notification for exemption" and that the Tribunal "upheld the contention of the Commissioner (Appeal) that the disputed goods were not water purifying equipment and thus were not eligible for exemption" is a misinterpretation. While the exemption was denied in that specific case due to the interpretation of the notification's conditions (Sr. No. 8B requiring "water purification equipment" as a whole, not just a part), the classification of membrane elements under CTH 8421 9900 was not disturbed. The core finding on classification supports the Appellant.

Commissioner of Customs, Madras vs. Titanium Equipments & Anode Mfg. Co. Ltd., 1999 (107) E.L.T. 112 (Tribunal):

This judgment further reinforces the Appellant's position. The Tribunal held that filter cartridges, being essential parts of a filtering and purifying system without which the system cannot function, are classifiable under Chapter Heading 8421 9900. The Tribunal explicitly stated: *"whatever be the material used as long as the item is used as a filter cartridge and is replaced over a period of time so that the system continues to be working, it would be classified under Chapter Heading 8421.99."* This directly addresses the adjudicating authority's attempt to classify based on "plastic-like material."

6.5 The adjudicating authority's classification under CTH 3926 9099 is inappropriate. This Chapter Heading is for "other articles of plastics," implying a residual category for general plastic articles not specifically covered elsewhere. As established, the imported membranes are highly specialized parts of a specific machinery (filtering/purifying systems), not general plastic articles.

6.6 The reliance on Circular No. 24/2013-Cus., dated 27.06.2013, which



suggests classifying filter elements as per their constituent material, is indeed contrary to the consistent rulings of the CESTAT in Pure & Cure Technology and Titanium Equipments. When there are specific judicial pronouncements on the classification of such goods, a circular that offers a conflicting interpretation cannot override the binding nature of Tribunal decisions. Furthermore, Section Note 1 (g) to Section XVI excludes "parts of general use" made of plastic from Section XVI, not specific parts that are integral to a machine's function. The membranes in question are specific parts, not general-purpose items.

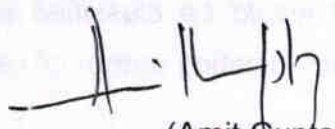
6.7 Since the correct classification of the imported membranes is established under CTH 8421 9900, the Appellant is indeed eligible for the benefit of NIL BCD under Sr. No. 8768 of Table I of Notification No. 22/2022-Customs, dated 30.04.2022, provided all other conditions of the CEPA agreement regarding origin are met, which is not disputed in this case. The denial of this exemption by the adjudicating authority, based on an erroneous classification, is therefore incorrect.

6.8 Given that the classification adopted by the Appellant is found to be correct and supported by Customs Tariff Notes and judicial precedents, there is no mis-declaration of Customs Tariff classification or contravention of Section 46 of the Customs Act, 1962. Consequently, the imposition of penalties under Section 117 of the Customs Act, 1962, and the demand for differential duty and interest are not justified and must be set aside.

7. In light of the comprehensive discussions and findings above, I conclude that the adjudicating authority erred in re-classifying the imported membranes under CTH 3926 9099. The goods are correctly classifiable under CTH 8421 9900 as parts of filtering machinery, as supported by Section Note 2 to Section XVI of the Customs Tariff Act, 1975, and consistent judicial pronouncements. As a result, the Appellant is eligible for the claimed exemption under Notification No. 22/2022-Customs dated 30.04.2022. Consequently, the demand for differential duty, interest, and the imposition of penalties are unsustainable.

8. In view of the discussions made above I set aside the impugned orders and allow both the appeals filed by the Appellant with consequential benefits, if any, in accordance with law.




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

F. No. S/49-317/CUS/AHD/23-24
S/49-340/CUS/AHD/23-24

सत्यापित/ATTESTED


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