

**Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad**

REGIONAL BENCH- COURT NO.1

Customs Appeal No. 10098 of 2024

(Arising out of Order-in-Original No. MUN-CUSTOM-000-COM-18-23-24 dated 11.12.2023 passed by Principal Commissioner-Mundra Customs)

Gulshan Exim Private Limited

B-234, 2nd Floor, North Ex-Mall
Sector-9, Rohini, New Delhi-110085

...Appellant

VERSUS

C.C.-Mundra

Office of Pr. Commr. of Customs, Port User Building
Custom House, Mundra, Mundra-Kutch,
Mundra Port and Special Economic Zone-Kachchh-Gujarat-370421

...Respondent

WITH

- (i) Customs Appeal No. 10099/2024 (Ashok Kumar, Director of Gulshan Exim Pvt Ltd);**
- (ii) Customs Appeal No. 10440/2024 (Gupta Steel)**
- (iii) Customs Appeal No. 10463/2024 (Mohan Jain)**
- (iv) Customs Appeal No. 10464/2024 (Bhagvan Shri Strips Pvt. Ltd.)**

(Arising out of Order-in-Original No. MUN-CUSTOM-000-COM-18-23-24 dated 11.12.2023 passed by Principal Commissioner –Mundra Customs)

(Arising out of Order-in-Original No. MUN-CUSTOM-000-COM-04-24-25 dated 22.04.2024 passed by Principal Commissioner-Mundra Customs)

(Arising out of Order-in-Original No. MUN-CUSTOM-000-COM-10-24-25 dated 09.05.2024 passed by Principal Commissioner-Mundra Customs)

(Arising out of Order-in-Original No. MUN-CUSTOM-000-COM-10-24-25 dated 09.05.2024 passed by Principal Commissioner-Mundra Customs)

APPEARANCE:

Shri Ajay Jain, Advocate appeared for the appellant

Shri Jaspreet Singh Sukhija, Additional Commissioner (AR) appeared for the Respondent

**CORAM: HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)
HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER(TECHNICAL)**

FINAL ORDER NO. 11384-11388 /2025

DATE OF HEARING: 07.07.2025
DATE OF DECISION: 03.12.2025

SATENDRA VIKRAM SINGH:

The matter in these bunch of appeals is same. To avoid repetition, the facts in the case of M/s Gulshan Exim Private Limited (Appeal No. 10098/2024) are mentioned as under:-

- 1.1 The appellant M/s Gulshan Exim Private Limited had imported "Flat rolled product of Stainless Steel" falling under Chapter Heading 7219 / 7220 from China. On the basis of intelligence, officers of DRI conducted investigation in the case of the appellant as well as

other importers suspecting that they had wrongly availed the benefit of Notification No. 50/2018-Cus dated 30.06.2018 by misclassifying goods under Chapter Tariff Heading 7220 9022. This Notification exempts duty to the extent of 45% of the applied rate on the goods "Nickel Chromium Austenitic Steel" falling under Chapter Tariff Heading 7220 9022. The appellant had imported Cold Rolled Stainless Steel Coils Grade J-3 which contain more percentage of Chromium and Manganese than Chromium and Nickel. After conducting investigation and recording statements of Shri Dipak Sawlani (G Card Holder), statements of Shri Ashok Kumar, Director of the Appellant Firm, a show cause notice dated 20.05.2022 was issued to the appellant proposing rejection of declared classification and reclassifying the said imported goods under Chapter Tariff Heading 7220 9090, reassessment of the imported goods, confiscation of the said goods valued at Rs. 8,05,40,987/- under Section 111(m) of the Customs Act, 1962, demanding differential duty of Rs. 41,36,129/- and imposition of penalty under Section 112(a), 112(b), 114A, 114AA and 117 of the Customs Act, 1962. Separate penalties were proposed on Shri Ashok Kumar, Director of the appellant firm, M/s R R Logistics, M/s Shivam Clearing Agency Private Limited, Shri Dipak Sawlani, G Card Holder under Section 112(a), 112(b), 114A, 114AA and 117 of the Customs Act, 1962. Separate SCNs were issued to the appellant for imports done from JNPT and Customs, Noida. Similar SCNs were issued to other two appellants namely M/s Gupta Steel and M/s Bhagvan Shri Strips Pvt. Ltd. as detailed in below para.

- 1.2 The Principal Commissioner, Customs Mundra decided three show cause notices issued to M/s Gulshan Exim together vide impugned order dated 11.12.2023 wherein he confirmed the charges made in the SCNs. He rejected the classification of the goods declared by the appellant reclassified them under tariff heading 7220 9090, confiscated the imported goods under Section 111(m), confirmed the differential duty along with interest and imposed equal penalty upon the appellants under Section 114A of the Customs Act, 1962 along with penalty under Section 114AA & 117 of the Act. He however did not impose any penalty under Section 112(a) and 112(b) of the Customs Act, 1962. He also imposed penalty on Shri Ashok Kumar, Director of the appellant firm under Section 112(a)(ii) of the Customs Act, 1962. The adjudicating authority

did not impose penalty on other co-noticees namely M/s R R Logistics, M/s Shivam Clearing Agency Private Limited and Shri Dipak Sawlani(G Card Holder of M/s R R Logistics and M/s Shivam Clearing Agency Private Limited). He also passed separate orders in the case of M/s Gupta Steel (order dated 22.04.2024) and M/s Bhagvan Shri Strips (order dated 09.05.2024) as detailed under:-

SCN & dt.	GEN/ADJ/ADC/478/2022-Adjn dtd. 20.05.2022 (1)	GEN/ADC/NOIDA/CUS/2022-23 dtd.24.03.2023 (2)	GEN/ADJ/ADC/478/2022-Adjn dt.12.05.2023 (3)	GEN/ADJ/COMM/273/2022-Adjn dtd. 12.05.2023 (4)	GEN/ADJ/COM M/54/2023-Adjn dtd.03.05.2023 (5)
OIO No. & Dt.	MUN-CUSTOM-000-COM-18-23-24			MUN-CUSTOM-000-COM-10-24-25	MUN-CUSTOM-000-COM-04-24-25
Goods Imported	CRSS Coils for manufacture of pipes & tubes	CRSS Coils Grade-J3 EX Stock for manufacture of pipes & tubes	Non Magnetic CRSS Coils Ex Stock Grade J3 less than 600 mm	CRSS Coils Grade-J3 EX Stock	CRSS Coils Grade-J3 EX Stock
Classification determined	72209090	72209090	72209090	72209090	72209090
Value of the goods confiscated	Rs.8,05,40,987/-	Rs.1,71,72,417/-	Rs.87,02,776/-	Rs. 29,35,51,630/-	Rs.14,30,77,101 /-
Differential duty	Rs.41,36,129/-	Rs.8,81,878/-	Rs.4,46,925/-	Rs. 1,56,93,535/-	Rs.72,82,376/-
Penalty U/s 114A	Rs.41,36,129/-	Rs.8,81,878/-	Rs.4,46,925/-	Rs. 1,56,93,535/-	-
U/s 114AA	Rs.4,00,000/-	Rs.50,000/-	Rs.20,000/-	-	-
u/s 117	Rs.1,00,000/-	Rs.25,000/-	Rs.15,000/-	-	-
Penalty on Directors/ Prop.	Rs.4,13,613/- U/s 112 (a) (ii) on Ashok Kumar, Director	Rs.88,188/- U/s. 112 (a) (ii) on Ashok Kumar, Director	Rs.44,693/- U/s. 112 (a) (ii) on Ashok Kumar, Director	Rs.10,00,000/- U/s. 112 (a) (ii) on Mohan Jain, Director	Rs.7Lakh U/s. 112 (a)(ii)& Rs.5Lakh U/s. 114 AA on Sri Daksh Garg, Prop.

Note : CRSS – Cold Rolled Stainless Steel.

1.3 Aggrieved with the said orders, the appellant(s) filed appeal (s) before this Tribunal.

2. In their appeal, the appellant(s) submitted the following points:

- There are no pre-requisites for imported goods to fall under Chapter heading 7220 9022. Further, Nickel Chromium Austenitic Steel is not defined anywhere in the Customs Tariff Act 1975.
- In Bureau of Indian Standards, only Nickel Austenitic Steel is specified and its sub-classification have not been provided.

As per Indian Standard 6911, there are four types of Stainless Steel:

- (a) Austenitic Stainless Steel – 200 series, 300 series and N series.
 - (b) Ferritic Stainless Steel
 - (c) Martensitic Stainless Steel
 - (d) Duplex Stainless Steel
- As per Indian Standard 15997:2012, low Nickel Austenitic Stainless Steel / Strips are used for utensils and kitchen appliances. Various Grades are N1, N2, N3 etc. which have Nickel in the range of 1-2%. In 2023, some new Grades such as N5, N6 and N7 were introduced where content of Nickel is in the range of 0.2% to 0.95%.
 - There is no authentic technical literature to show that low percentage of Nickel cannot be classified under Nickel Chromium Austenitic Steel. When both Nickel and Chromium are present, it is Nickel Chromium Austenitic Steel covered under Chapter sub-heading 7220 9022.
 - For making allegations against the appellants, the department has placed reliance on various websites such as ALCO Metals Ltd., ASM International etc. which are not very authentic sites.
 - Mere presence of more Manganese in the imported item along with low percentage of Nickel, cannot disqualify the product from being classified under Chapter Tariff Heading 7220 9022.
 - The Department's conclusion that the imported goods merit classification under Chapter Tariff Heading 7220 9090 is not supported by any technical data or authentic technical literature or by Indian Standards Specifications. The information on the website of ASM International that nickel cannot be less than 6% for austenitic stability is outdated and hence, not correct. The question in this case is that if percentage of Nickel is less and percentage of Manganese is more, then whether the imported goods can be considered as Austenitic Steel other than Nickel Chromium type. The department has not produced any authentic literature on this aspect.
 - The department has rejected benefit of Country of Origin on the ground that exporter's name on Commercial invoice

does not tally with the name mentioned on the Country of Origin Certificate. The COO Certificate issued by China is in favour of the manufacturer of the goods, while commercial invoice has been issued by the supplier in Hongkong. The name is mentioned in column 7 of the Country of Origin Certificate instead of column 1. This too is also in respect of some consignments only. On this ground, rejection of Country of Origin Certificate is not proper. Otherwise also, if the importing state had any doubt about veracity of the Country of Origin Certificate, necessary consultation could have been done with the issuing authority as per clause-5 of the Rules of Origin which in these cases, has not been done.

3. During hearing learned Advocate mentioned that their case is squarely covered by the decision in the case of Shah Foils Limited vs CC Mundra vide Final Order No. 10979-10982/2024 dated 01.07.2024. He argued that the imported goods are correctly classifiable under CTH 7220 9022 as "Nickel Chromium Austenitic Type" because there are no prerequisites or conditions prescribed under the Customs Tariff for the goods to qualify as Nickel Chromium austenitic type and the scope of the entry under the Indian Customs Tariff Act is to be seen in terms of the description given in the CTH along with the Section and Chapter Notes.

3.1 'Nickel chromium austenitic steel' has not been defined anywhere in the Customs Tariff and therefore, scope of this entry can be understood in terms of the national standards published by the Bureau of Indian Standards (BIS). A plain reading of the relevant Indian Standards as applicable to stainless steel viz., IS 6911: 2017, IS 5522: 2014 and IS 15997: 2012, would indicate that there are certain grades of austenitic steel which can have very low percentage of nickel. No separate categories of austenitic steel such as 'Nickel Chromium Austenitic Steel' or 'Manganese Chromium Austenitic Steel' etc. are defined in Indian standards. The BIS only provides for percentage of different components in austenitic steel without defining the same as 'Nickel-chromium' type or 'Manganese Chromium' type. There is no prescribed methodology in BIS to arrive at what type of austenitic steel it is. Once it is established that the item imported (J3 grade) is an austenitic steel, it comes out clearly from the chemical analysis that both Nickel and Chromium are present in the same, the item imported will squarely fall in the category of 'Nickel chromium austenitic steel' under CTH 7220 9022.

3.2 Reliance is placed on the publication by Nickel Institute, i.e. 'Austenitic Chromium-Nickel Stainless Steels at Ambient Temperatures - Mechanical & Physical Properties' (refer Exhibit-E of the appeal memorandum) which provided that J-3 grade of steel imported by the Appellant, which is equivalent to international Grade 201, is classifiable as Nickel-chromium austenitic steel. In light of above, impugned goods are correctly classifiable under heading 7220 9022

3.3 Reliance placed by the Respondent on the website of Aalco Metals Ltd. and ASM International and on the technical literature available in the User guide of Salem Steel which is under the Steel Authority of India is manifestly incorrect for the below reasons:

a. The website of Aalco Metals Ltd mentions the main feature of 200 series stainless steel that it has lower Nickel than 300 series, which is replaced by Manganese. There is no mention therein that 200 series austenitic steel cannot be considered as Nickel Chromium Austenitic Steel and therefore, mere presence of more manganese in the items imported along with presence of Nickel in smaller quantity does not disqualify the item imported from classification under CTH 7220 9022.

b. The website of ASM International mentions the lower limit of Nickel to be not less than 6% for austenitic stability but this conclusion is not supported by any authentic technical basis or even the BIS. The Nickel percentage in some austenitic steels is as low as 1-2% and therefore it is clear that the information mentioned in this website is outdated and cannot be relied upon for its accuracy.

c. The User Guide of Salem Steel is also not a statutory guide which can be relied upon to decide whether or not the goods imported by the Appellant are classifiable as Nickel-Chromium austenitic type.

3.4 The Country of Origin Certificate cannot be rejected on the ground that name of the exporter on the Certificate does not match with Exporter's name in the commercial invoice. The name of the exporter issuing invoice is not mentioned in column 1 of the COO which is for 'Goods consigned from', and the said exporter's name is mentioned in column no. 7, which is for 'Description of goods' as a Non-Party Operator. In any case, there are substantial number of consignments where exporter's name is same both in the invoice as well as on COO. Therefore, such a rejection is unfounded.

3.5 In terms of "Clause 5 of Annexure B to the Asia-Pacific Rules of Origin", if the importing member nation has any query regarding the

Certificate, it has to initiate consultations with the Designated Authority of the exporting member nation. As no such consultations were ever initiated by Revenue with the issuing authority in the exporting country, rejection of COO simply on the ground stated above is ex facie illegal and in contravention to the provisions of the APTA agreement.

3.6 Alternate classification proposed by the Respondent under the Heading CTH 7220 9090 is incorrect in as much as steel imported by the Appellant is used not only for manufacturing utensils but also in pipes and tubes industry and thus, contention of Revenue that the goods imported by Appellant(s) do not fall within CTH 7220 9010 and its sub-entries is factually incorrect. Even assuming without admitting that classification proposed by the Department is correct and the goods are austenitic type but not 'Nickel-chromium' type, even in that case also, goods will remain classifiable at three dash level after 7220 90 10 as **Strips for pipes and tubes (other than skelps)** and under this, at four dash level in any of the three entries. In any case, even assuming that the classification adopted by the Appellant under CTH 7220 9022 is incorrect, then the goods in question would be correctly classified under CTH 7220 9029 and the Appellant would be entitled to an exemption of 15% on the BCD rate under serial number 735 of the Notification No. 50/2018-Cus dated 30.06.2018.

3.7 The SCN no. GEN/ADJ/ADC/478/2022-Adjn/1913 dated 20.05.2022 has been adjudicated beyond the time limit prescribed under Section 28(9) of the Act for adjudication and that, reliance by the Respondent on Instruction no. 4/2021-Cus. dated 17.03.2021 to transfer the SCN to call book is incorrect and bad in law. Vide this instruction, CBIC had directed to keep pending, only the SCNs issued by the DRI and not the ones where investigation was initiated by DRI but SCNs were issued by the concerned port. In this case, since SCN has been issued by the Addl. Commissioner, Mundra Custom, hence, it should not have been kept in the call book. The time limit to adjudicate the said SCN was till 20.05.2023 and therefore, the impugned order adjudicating the said SCN, beyond the said period, is bad in law.

3.8 The commercial parlance cannot be applied in the present case in as much as according to Commercial trade parlance, austenitic stainless steel grades have 4.5%-12% of Nickel, whereas, as per Indian Standards, the new series of austenitic steel have even lower quantity of

nickel to the tune of less than 1%. Furthermore, the websites or the technical literature relied upon by the Respondent nowhere state that steel with less percentage of nickel cannot be termed as 'Nickel chromium austenitic type' and therefore, the commercial parlance test cannot be applied.

3.9 Learned Advocate also argued that the statements recorded under Section 108 cannot be relied upon in the present case inasmuch the dispute pertains to classification of steel which in itself is a technical issue and persons whose statements were recorded are not technical personnel or subject experts who can provide an advice on the matter. These statements cannot supersede the meaning, description and literature provided under the statutory Indian Standards on the composition and properties of steel and therefore, reliance placed on the statements is untenable and unfounded.

3.10 It is submitted that change in classification adopted by the Appellant, after issue of notification no. 50/2018-Cus cannot be a ground to allege suppression of facts in as much as every importer is entitled to claim the benefit of an exemption if he is under a bonafide belief that he is entitled to such an exemption. The Appellant had truthfully declared all the material facts at the time of import and at the time of investigation. Therefore, in absence of any positive act on part of the Appellant to mis-declare or suppress any facts, and particularly in cases where issue is relating to interpretation, suppression of facts cannot be alleged to invoke the extended period of limitation.

3.11 In the present case, there is no suppression of facts, collusion, or any willful mis-statement on part of the Appellant and therefore penalty under Section 114A is not imposable. Further, there is no false declaration, statement or document made, signed or used by the Appellant and mere difference of opinion and interpretation of classification of the imported product cannot be a ground to impose penalty under Section 114AA of the Customs Act. Also, there was no contravention of any provisions of the Customs Act or abetment of any such contravention, on the part of the Appellant and therefore, no penalty can be imposed under Section 117 of the Customs Act.

3.12 In light of above submissions, Learned Advocate prayed to allow the appeals filed by the Appellants and set aside the impugned Order (s) along with any other consequential relief, as deemed fit.

4. Learned AR while reiterating the findings of the lower authorities supplemented arguments as follows:

4.1 The information/ literature available on website (<https://www.aalco.co.uk>) of M/s Aalco Metals Limited, (a company registered in England & Wales, the UK's largest independent multi-metals stockholder); and on website (<https://www.asminternational.org>) of M/s ASM International (World's largest and most established materials information society providing access to trusted material information through reference content, data and research, education courses and international events); clearly indicates that Austenitic Stainless-Steel grades have essentially content by weight (%) of alloying elements Chromium (Cr) from 16% - 19% and Nickel (Ni) from 4.5% -12%. The chemical composition as per Mill Test certificate/ Test certificate/ Inspection Certificate produced by the importer at the time of import shows content of Chromium (Cr) as nearly 13% and Nickel as nearly 1% which rules out its classification as Austenitic Stainless-Steel grades. Therefore, the goods imported as Cold Rolled Stainless Steel Coils of Nickel Chromium Austenitic Type by the Appellants are in fact Stainless Steel of other Grades and would be correctly classifiable under CTH 72209090.

4.2 Appellants had availed benefit of Notification No. 50/2018-Customs dated 30.06.2018 on the basis of Country of Origin certificate(s) issued by China based manufacturers in the name of importer, whereas invoices were issued by other supplier based at Hong Kong. In terms of notes for completing certificate of origin, in "Box 1, meant for goods "consigned from", actual exporters name as described in the invoice(s) must appear. The Rules of Determination of Origin of Goods under Asia-Pacific Trade Agreement, Rules, 2006. Notification No. 94/2006-Cus. (N.T) dated 31.08.2006 as amended) has no exclusive provision for accepting a certificate of origin for which invoice is issued by a non-party. Therefore, benefit of exemption from payment of duty under notification no. 50/2018-Cus dated 30.06.2018 is not available to those COO certificates which are issued other than actual exporters.

4.3 As far as duty demand under Section 28(4) is concerned, he submitted that the importers have willfully mis-classified the goods with intent to avail undue benefits and evade payment of customs duty. The appellant on their own, changed classification of imported goods earlier adopted by them without any change in quality of the imported goods to avail benefits of concessional duty for some tariff items in the same Chapter. That too, without any indication that they engaged with the Customs department in any manner while doing so. In this factual matrix, they cannot claim that all the facts were known to the Department and that there was no intent to evade payment of customs duty. Therefore, demand under section 28(4) of the Customs Act, 1962 has rightly been issued.

4.4 Appellant(s) have placed reliance on CESTAST decision in the case of M/s. Shah Foils Ltd. (C/10115/2024) and where this issue was decided in party's favour. The appellants had also relied upon Indian Standard IS 15997; 2012 which are for low Nickel Austenitic Stainless Steel and not for the Nickel Austenitic Stainless steel which the appellants had imported. Further, as per IS 15997, there are many grades of austenitic stainless steel having Nickel content ranging from 0.2 to 14% with chromium range of 13.5 to 24%. In the case of M/s. Shah Foils Ltd., Hon'ble CESTAT have not discussed the percentage of Chromium in the imported goods. The documents submitted by the appellants, show that percentage of Nickel is low than what is required for Classification under Nickel Austenitic Stainless Steel as per the Indian Standard.

4.5 Learned AR also pleaded that not all Austenitic Stainless Steel are Nickel Chromium Austenitic type. There are other types of Austenitic Steel as well. He sought permission of the Tribunal for making additional submissions in support of the department's case. Miscellaneous Application dated 01.08.2025 containing technical literature supporting this scientific position was filed before the Hon'ble Tribunal for consideration as detailed below:-

IS 15997:2012 titled 'Low Nickel Austenitic Stainless Steel Sheet and Strip for Utensils and Kitchen Appliances vide which Bureau has listed out the requirements for "Low Nickel Austenitic Stainless-Steel Sheet and Strip for manufacturing of utensil and kitchen appliances". Para 8.1 under the heading of "Chemical Composition" lays out the composition for such steel which is further detailed in Table 1 of the standard. The goods imported by the Appellant most closely

correspond to grade N1 of the said Table-1 which was also admitted by the appellant during previous hearing. This clarifies that Low Nickel Austenitic Stainless Steel is a separate sub category within categorisation of Austenitic Stainless Steel.

- Reference was invited to Ministry of Steel's order S.O. 1673(E) dated 27th May 2020 issued vide F.No. 1(8)/2019-TD. At serial no. 53 of Schedule 1 of which stated IS standard IS 15997:2012 relating to Low Nickel Austenitic Stainless-Steel Sheet and Strip for Utensil and Kitchen Appliances - Specification have been shown to correspond to ITC(HS) codes inter alia 7220 1290, 7220 2090, 7220 9090. It may be noted that this category of Austenitic Steel, which is different from Nickel Chromium Austenitic Type, does not fall under ITC(HS) Code 72209022 as claimed by the Appellant. This order has since been superseded by Ministry of Steel's order S.O. 574(E) dated 5th February 2024 issued vide F.No. S-20011/101/2022-TECH, but this order also maintains and reaffirms the same position. Copy of both these orders are being submitted.
- While reply to RAJYA SABHA UNSTARRED QUESTION NO. 315 FOR ANSWER ON 03/02/2021, Honorable Minister of Steel in part(c) of the question stated "Ministry of Steel has issued the Steel and Steel Products Quality Control Orders through which it has directed to have compulsory BIS certification for 145 Iron and Steel Products. BIS has issued licenses to 2402 domestic manufacturers of these steel products to use BIS Standard Mark (IS Mark) on their product after factory inspection and testing of the product for conformity to the applicable Indian Standard. The details are attached as Annexure-1." The said Annexure-I at S. No. 53 lists IS 15997:2012 categorising the product Low Nickel Austenitic Stainless Steel Sheet and Strip for Utensils and Kitchen Appliances.
- On the basis of above official documentation of Government of India, he pleaded that the appellant's goods are falling under ITC(HS) Code 7220 9090 and not under 72209022 against Nickel Chromium Austenitic type as claimed by the appellant.

5. Learned Advocate submitted his rebuttal vide letter dated 14.08.2025 to countering these arguments of Learned AR. He mentioned that the crux of the Respondent's arguments made during the course of the hearing is that austenitic steel containing low quantity of

nickel is not 'Nickel chromium austenitic steel'. It is argued that there are two different types of austenitic steel, i.e. the one with low nickel and the other with high nickel; and that, only high nickel austenitic steels are covered under heading 7220 9022 and eligible for exemption and not the ones with low amount of nickel. His rebuttal is as under:-

The Appellants had argued and re-submit that there is no such bifurcation of low nickel and high nickel in the classification of steel, either in the Customs Tariff or any other authentic/ statutory literature. Even in IS 6911, which includes N series as well, the only category mentioned is 'Austenitic Steel' and not low Nickel or High Nickel Austenitic Steel. The austenitic steel with nickel content is known as 'Nickel chromium austenitic type'. The arguments put forth by Revenue authorities is out of its own imagination and not backed by any statutory or authentic literature.

- The Respondent also submitted that steel imported by the Appellants is Low Nickel Chromium Austenitic Steel more closely corresponding to Grade N1, as provided under BIS 15997:2012. The Respondent has thus inferred that low Nickel Austenitic Steel is a separate category of steel within the sub-categorisation of Austenitic Steel. Indian Standards do not provide for any sub categories within 'Austenitic Steel'. There are different series of austenitic steel based on composition, but no criteria is laid down which could state as to what can be considered as Nickel-Chromium Austenitic Steel. It is clear from the standards that even if the Nickel content is low, the product still continues to be Nickel Chromium Austenitic Steel and there is no separate category as Low Nickel Chromium Austenitic Steel. Had that been the case, there would have been such separate classification provided under any of the BIS Standards or the Customs Tariff or any of the Chapter Notes, Section Notes therein or any other statutory literature. In absence of the same, submission of the Respondent, thereby differentiating Nickel Chromium Austenitic Steel from Low Nickel Chromium Austenitic Steel is grossly incorrect, untenable and out of imagination, not backed by any statutory evidence.

The said submissions of Respondent are beyond the allegations levelled in the show cause notice(s) and therefore, deserves to be set aside on this count alone.

- As regards reference to the order of the Ministry of Steel and reply to 'Rajya Sabha Unstarred Question No. 315 for Answer on

03/02/2021', he argued that the allegations in the SCNs are based on the information available in specific websites relied upon by the Department to indicate that steel in which Nickel content is only about 1%, is not Nickel Chromium austenitic steel but is the one where Nickel has been substituted by Manganese.

- The Respondent has now relied upon the Ministry of Steel Order S.O. 1673 (E) dated 27th May 2020 to impress that serial no. 53 of Schedule 1, (IS 15997: 2012) relates to 'Low Nickel Austenitic Stainless Steel sheet and Strip for Utensils and Kitchen Appliances' which corresponds to CTH 7220 1290, 7220 2090, 7220 9090. This category of Austenitic Steel (imported goods), which is different from Nickel Chromium Austenitic Type, does not fall under ITC (HS) code 7220 9022 as claimed by the Appellant. This order has since been superseded by the Ministry of Steel's order S.O. 574 (E) dated 5th February, 2024, but same position is maintained.
- The submissions made by the respondent are, without any logic, cryptic and totally vague. It is not clear as to how serial no. 53 of the Table attached to the cited Order of the Ministry of Steel leads to a conclusion that the imported goods cannot be classified under heading 7220 9022. In the first leg of argument, the respondents seem to argue that only heading 7220 1290, 7220 2090, 7220 9090 are covered by IS: 15997:2012 and not the heading 7220 9022. The next leg of argument, they have taken a position that imported goods are different from Nickel-Chromium Austenitic Steel and hence, not classifiable under heading 7220 9022. Both arguments are totally disconnected. It does not mention as to what is the implication of absence of heading 7220 9022 but in in the Table and how it helps in determining classification of the imported goods. The argument advanced by the respondent is not discernible at all.
- The order dated 27th May, 2020 (superseded by Order dated 5th February, 2024) has been issued by the Ministry of Steel to order (vide clause 2) that Steel and Steel Products specified in column (3) of Table 1 shall conform to the corresponding Indian Standards specified in Column (2) of the said Table with effect from the dates specified in column (5) thereof. The extract of entry at serial no. 53 is given below:

Sl No.	Indian Standards	Steel or steel products	Indian Trades Classification (Harmonized System) Codes (ITC(HS))			Date of implementation
(1)	(2)	(3)	(4)			(5)
53	IS 15997:2012	Low Nickel Austenitic Stainless Steel Sheet and Strip for Utensils and Kitchn Appliances - Specification	72191300 72191400 72192320 72192390 72192421 72192422 72192423 72192429	72192490 72193220 72193290 72193320 72193390 72193420 72193490 72193520	72193590 72199012 72199013 72199090 72201290 72202090 72209090	With immediate effect

As per this order, steel or steel products of specified headings alone will be subjected to compliance with IS 15997:2012 with effect from the date of issue of that order. It also conveys that the goods covered by heading 7220 9022 were not subjected to compliance to IS 15997:2012 from that date. It, however, does not mean that whatever goods correspond to IS 15997:2012, will be classifiable under headings specified therein and under no other heading.

- Though the respondent has not made any specific argument, it appears that their argument is that the imported goods being more near to grade N1 will be covered by IS 15997:2012 but cannot be classified under heading 7220 9022, because this heading is not covered at serial number 53 of the Table. This argument is based on completely wrong premise as the purpose of Order dated 27th May, 2020 is only to specify the goods to which compliance of a particular standard are applicable and not the classification of imported goods.
- There is a clear mention of certain headings covering Nickel-Chromium Austenitic Steel falling under heading 7219 in serial number 53 of the Table. These are 7219 2320, 7219 2421, 7219 2422, 7219 2423, 7219 2429, 7219 3220, 7219 3320, 7219 3420, 7219 3520. Heading 7219 and 7220 are identical except difference in the width of the product. From these provisions, it clearly comes out that only specified Nickel-Chromium Austenitic Steel sub-headings of heading 7219 and 7220 are to meet the requirement of IS 15997:2020 and not all the sub-headings covering Nickel-Chromium Austenitic Steel of heading 7219 and 7220.

- The reply to Rajya Sabha Unstarred Question No. 315 for answer on 03.02.2021, also confirms that the purpose of Quality Control Orders is to direct compliance with BIS for specified products. The conclusion of Respondents that this reply supports their contention that the imported goods are not classifiable under heading 7220 9022 is totally devoid of merit.

6. We have heard the rival submissions. The issue to be decided is - classification of cold rolled strips imported by the appellant(s). Once classification of the product is determined, other aspects of the appeal shall be discussed.

6.1 In their appeal as well as during oral hearing, the appellant(s) have contended that their product is rightly classifiable under Chapter sub-heading 72209022 as cold rolled stainless steel (CRSS) Nickel Chromium Austenitic type. In the bills of entry, the description of the product has been given as "cold rolled stainless steel coils for manufacture of pipes and tubes". The scheme of classification of flat rolled products of stainless steel of width of less than 600 mm as per Customs Tariff, is as under:

7220	Flat-rolled products of stainless steel, of a width of less than 600 mm			
	- Not further worked than hot-rolled :			
7220 11	-- Of a thickness of 4.75 mm or more :			
Chapter 72 Iron and steel				1132
7220 11 10	--- Skelp for pipes and tubes	kg.	10%	-
	--- Strips for pipes and tubes (other than skelp) :			
7220 11 21	---- Chromium type	kg.	10%	-
7220 11 22	---- Nickel chromium austenitic type	kg.	10%	-
7220 11 29	---- Other	kg.	10%	-
7220 11 90	--- Other			
7220 12	-- Of a thickness of less than 4.75 mm :			
7220 12 10	--- Skelp for pipes and tubes	kg.	10%	-
	--- Strips for pipes and tubes (other than skelp) :			
7220 12 21	---- Chromium type	kg.	10%	-
7220 12 22	---- Nickel chromium austenitic type	kg.	10%	-
7220 12 29	---- Other	kg.	10%	-
7220 12 90	--- Other			
7220 20	- Not further worked than cold-rolled (cold-reduced) :			
7220 20 10	--- Skelp for pipes and tubes	kg.	10%	-
	--- Strips for pipes and tubes (other than skelp) :			
7220 20 21	---- Chromium type	kg.	10%	-
7220 20 22	---- Nickel chromium austenitic type	kg.	10%	-
7220 20 29	---- Other	kg.	10%	-
7220 20 90	--- Other			
7220 90	- Other :			
7220 90 10	--- Skelp (strips for pipes and tubes)	kg.	10%	-
	--- Strips for pipes and tubes (other than skelp) :			
7220 90 21	---- Chromium type	kg.	10%	-
7220 90 22	---- Nickel chromium austenitic type	kg.	10%	-
7220 90 29	---- Other	kg.	10%	-
7220 90 90	--- Other	kg.	10%	-

6.2 The appellant(s) have relied upon the decision of this Tribunal in the case of M/s Shah Foils (cited supra) to claim that even very low percentage of Nickel in the range of 1%-2% is covered under Chapter

sub-heading 7220 9022 as Nickel Chromium Austenitic type. In the decision of M/s Shah Foils, the Tribunal found that the whole case was made out for change of classification on the basis that when percentage of Nickel content in the product is less than 5-6%, the product will not qualify under "Nickel Chromium Austenitic Stainless Steel". The Tribunal in that case discussed the contention of the department including reliance on the information available in website of M/s AALCO Metals Limited (England & Wales) and M/s ASM International Limited but did not find it favourable. They also considered various literature produced by the appellant including Indian Standard IS 15997 : 2012 as amended in 2023 and also on the E-mail dated 17.06.2023 sent by Indian Stainless Steel Development Association Gurugram, Haryana addressed to one Mr. Nirav with copy to Shah Foils. The Tribunal heavily relied on this E-mail to hold that stainless steel having low nickel content as low as 0.2% with varying Chromium range of 13.5% to 24% would be falling under nickel chromium austenitic type. The Tribunal also observed that the Adjudicating Authority has confirmed altogether a different classification (72202029) instead of classification under Chapter Tariff Heading 7220 9090 as proposed in the impugned show cause notice. Relying on various decisions, this Tribunal held that adopting altogether a different classification than what was proposed in the show cause notice, is not sustainable. On limitation, it was held that the case of the department was based on the documents such as Mill test certificate, country of origin Certificate (COO), commercial invoices etc as produced by the appellant. In the light of the fact that the case was made out by the department on the basis of documents produced by the appellant, it held that there was no case of any suppression, fraud or willful misstatement. It therefore held that the case of the department also falls on limitation.

6.3 In the case of M/s Gulshan Exim & others, we find that Revenue has also challenged some of the COO certificates apart from classification of the imported goods. They have contended that in the COO certificate,, the name of the exporter should be the same as appearing in the invoice. We observe that in respect of some of the COO certificates, the name of the exporter and the name appearing in the commercial invoice is not the same. Two such certificates are reproduced below:-

GUIZHOU ZHONGRUIXIANGHE SUPPLY CHAIN CO., LTD

COMMERCIAL INVOICE

ORIGINAL

TO: GULSHAN EXIM PVT LTD.
SURVEY NO. 39/2 MEGHPAR BORICHI
ANJAR ROAD, GANDHIDHAM - KUTCH
GUJARAT -370110 - INDIA

INVOICE NO.: FSTT170504-B
DATE: 2018/8/30

DESCRIPTN OF GOODS	SURFACE	SIZE (MM)	UNIT PRICE (USD/ MT)	QUANTITY (MT)	AMOUNT (USD)
STAINLESS STEEL COLD ROLLED COILS EX-STOCK	2B	0.19*510	890.00	5.168	4,599.52
	2B	0.26*530	890.00	6.512	5,795.68
	2B	0.50*315	890.00	2.048	1,822.72
	2B	0.50*485	890.00	3.154	2,807.06
	2B	0.50*565	890.00	5.522	4,914.58
	2B	0.50*435	890.00	4.300	3,827.00
	2B	0.26*500	890.00	5.050	4,494.50
	2B	0.26*510	890.00	10.586	9,421.54
	2B	0.25*440	890.00	2.546	2,265.94
2B	0.26*565	890.00	8.656	7,703.84	
TOTAL :				53.542	47,652.38

Descriptn of Goods &/or Services

STAINLESS STEEL COLD ROLLED COILS EX-STOCK
GRADE J3,SURFACE - 2B
CIF MUNDRA,INDIA AS PER PROFORMA INVOICE NO FSTT170504 DATED 20 AUGUST 2018 OF GUIZHOU ZHONGRUIXIANGHE SUPPLY CHAIN CO., LTD CHINA

IMPORT LICENSE NUMBER 0505000281 FOR THE VALUE NOT EXCEEDING THE DRAFT AMOUNT
GOODS ARE FREELY IMPORTABLE UNDER FOREIGN TRADE POLICY OF INDIA 2015-2020 AND NOT IN THE NEGATIVE LIST OF THE SAID POLICY.

LC NUMBER: 18542FLCOU00086 ,ISSUANCE DATE: 100905

韩德友

ORIGINAL

<p>1. Goods consigned from (Exporter's business name, address, country) SHENZHEN YUELANQISHUI TRADING CO., LTD. CHINA O/3 GUIZHOU ZHONGRUIXIANGHE SUPPLY CHAIN CO., LTD ADMINISTRATIVE BUILDING OF MANAGEMENT COMMITTEE OF SHIYUPE INDUSTRIAL PARK, ZHONGSHAN DISTRICT, LIJIANSHEJI CITY, GUIZHOU PROVINCE, CHINA.</p>		<p>Reference No: B104702037830037</p>	
<p>2. Goods consigned to (Consignee's name, address, country) GULSHAN EXIM PVT LTD. SURVEY NO. 39/2 MEGHPAR BORICHI ANJAR ROAD, GANDHIDHAM - KUTCH GUJARAT -370110 - INDIA</p>		<p>CERTIFICATE OF ORIGIN Asia-Pacific Trade Agreement (Combined Declaration and Certificate) Issued in The People's Republic of China (Country) Verification: www.chinaorigin.gov.cn</p>	
<p>4. Means of transport and route FROM SHENZOU, CHINA TO MUNDRA, INDIA BY SEA</p>			
5. Tariff item number 7206.90	6. Marks and number of packages N/M	7. Number and kind of packages/contents of goods STAINLESS STEEL COLD ROLLED COILS EX-STOCK GOODS ARE OF CHINA ORIGIN GOODS ARE CLEARED UNDER HSR CODE 72069000 LC NUMBER: 18542FLCOU00086 ISSUANCE DATE: 100905 TOTAL: THIRTYEIGHT (38) PACKAGES ONLY.	8. Origin criteria (also notes governing) A
		9. Gross weight or other quantity 53746KGS G.W	10. Number and date of invoices FSTT170504-B AUG. 30, 2018
<p>11. Declaration by the exporter The undersigned hereby declares that the above details and statements are correct, that all the goods are of the country specified and that they are of the origin specified for these goods in the Asia-Pacific Trade Agreement of goods exported to (Importing Country) Shenzhen, China, SEP. 11, 2018</p>		<p>12. Certificate It is hereby certified that the goods of control carried out, that the declaration by the undersigned is correct and that the goods are of the origin specified for these goods in the Asia-Pacific Trade Agreement of goods exported to (Importing Country) Shenzhen, China, SEP. 11, 2018</p>	
<p>Place and date, signature of authorized Signatory</p>		<p>Place and date, signature and Stamp of Certifying Authority</p>	

GUIZHOU ZHONGRUIXIANGHE SUPPLY CHAIN CO., LTD
 ADMINISTRATIVE BUILDING OF MANAGEMENT COMMITTEE OF SHUIYUE INDUSTRIAL PARK,
 ZHONGSHAN DISTRICT, LIUPANSHUI CITY, GUIZHOU PROVINCE

COMMERCIAL INVOICE

TO: **GULSHAN EXIM PVT LTD.**

NO.: FSTT170504-C

SURVEY NO. 39/2 MEGHPAR BORICHI ANJAR ROAD, GANDHIDHAM - KUTCH GUJARAT -370110 - INDIA

DATE: 2018/9/7

FROM: SHEKOU, CHINA			TO: MUNDRA, INDIA		
DESCRIPTN OF GOODS	SURFACE	SIZE (MM)	PRICE (USD/ MT)	QUANTITY (MT)	AMOUNT (USD)
CIF MUNDRA, INDIA					
Stainless steel cold rolled coils Ex-stock Grade J3	2B/J3	0.25*485	US\$878	5.882	\$5,164.40
	2B/J3	0.25*438	US\$878	4.944	\$4,340.83
	2B/J3	0.18*530	US\$878	3.992	\$3,504.98
	2B/J3	0.22*510	US\$878	6.864	\$6,026.59
	2B/J3	0.16*560	US\$878	7.628	\$6,697.38
	2B/J3	0.17*560	US\$878	7.632	\$6,700.90
	2B/J3	0.19*530	US\$878	8.439	\$7,409.44
	2B/J3	0.19*510	US\$878	10.016	\$8,794.05
FULL VALUE OF GOODS				55.397	\$48,638.57

TOTAL : U.S. DOLLAR FORTY EIGHT THOUSAND SIX HUNDRED AND THIRTY EIGHT AND CENTS FIFTY SEVEN ONLY

BENEFICIARY BANK DETAILS
 BENEFICIARY BANK: BANK OF COMMUNICATIONS GUIZHOU PROVINCIAL BRANCH
 SWIFT CODE: COMMCNSHQYG
 BANK ADDRESS: NO.4 SHENG FU ROAD, GUIYANG, GUIZHOU, P.R. CHINA
 NAME OF BENEFICIARY: GUIZHOU ZHONGRUIXIANGHE SUPPLY CHAIN CO., LTD
 BENEFICIARY A/C NO.: 5210 0010 3142 0160 02710

Payment term: 100% TT after shipment

ISSUED BY BENEFICIARY
 GUIZHOU ZHONGRUIXIANGHE SUPPLY CHAIN CO., LTD
Valley Jiang

ORIGINAL

1. Goods consigned from (Exporter's business name, address, country): SHENZHEN YUXIANGSHI TRADING CO., LTD CHINA O/B GUIZHOU ZHONGRUIXIANGHE SUPPLY CHAIN CO., LTD ADMINISTRATIVE BUILDING OF MANAGEMENT COMMITTEE OF SHUIYUE INDUSTRIAL PARK, ZHONGSHAN DISTRICT, LIUPANSHUI CITY, GUIZHOU PROVINCE, CHINA		Reference No: B184702237580009	
2. Goods consigned to (Consignee's name, address, country): GULSHAN EXIM PVT LTD. SURVEY NO. 39/2 MEGHPAR BORICHI ANJAR ROAD, GANDHIDHAM - KUTCH GUJARAT -370110 - INDIA		3. For Official use Verification: www.chinainfigis.gov.cn	
4. Means of transport and route: FROM SHEKOU CHINA TO MUNDRA INDIA BY SEA			
5. Tariff item number: 7202.90	6. Marks and number of Packages: N/A	7. Number and kind of packages (box, case, etc.) of goods: STAINLESS STEEL COLD ROLLED COILS EX-STOCK GRADE J3 HS CODE: 7202.90.22 TOTAL SEVENTEEN (17) PACKAGES ONLY.	8. Origin certificate (see notes 1 and 2): A
		9. Gross weight or other quantity: 55.397 MT	10. Number and class of invoice: FSTT170504-C SEP. 07, 2018
11. Declaration by the exporter: The undersigned hereby declares that the above details and statements are correct, that all the goods are produced in _____ and that they are entitled to the origin status specified for these goods in the Annex to the Agreement for Goods Exported to _____ (Exporting Country). Shenzhen, China, SEP. 07, 2018 Place and date, signature of authorized signatory		12. Certificate: It is hereby certified on the basis of the declaration of the exporter that the goods are entitled to the origin status specified for these goods in the Annex to the Agreement for Goods Exported to _____ (Importing Country). Shenzhen, China, SEP. 07, 2018 Place and date, signature and stamp of Certifying Authority	

6.4. Vide notification No. 94/2006-Cus(NT) dated 31.08.2006, Rules of Determination of origin of goods under Asia Pacific Trade Agreement

Rules, 2006 have been prescribed. Annexure-A to these Rules provides sample form for certificate of origin. Column 1 of this certificate prescribes space for "**exporter's business name, address, country**". Under Note II of this form, it has been specified as to how entries to be made in the boxes. For Box 1, it is specified that –"Type the name, address and country of the Exporter. **The name must be the same as the exporter described in the invoice.** We find that country of origin certificates show name of the exporter as Shenzhen Yuxiangshun Trading Co. Ltd., China Guizhou Zhongrisianghe supply chain Co. Ltd. commercial invoices shows name as Guizhou Zhongruixianghe Supply Chain Co. Ltd Therefore, it is clear that the details filled in these two certificates are not as per the prescribed rules.

6.5 Indian Standards IS 15997:2012 were reaffirmed in 2018 and 2022 which added grades N1, N2 & N3 by providing specification for low nickel austenitic stainless steel sheet and strips for utensils and kitchen appliances. In March 2023, these standards were again amended to include N5, N6 and N7 grade having very low Nickel content for utensils and kitchen appliances. We further find that Serial no. 11 of IS Specification 15977:2012 which is reproduced below, provides nomenclature for various finish grades:

11 SURFACE FINISH

The material shall be supplied in one of the standard finishes on both surfaces for mill finishes and one or both surfaces for polished/ground finishes. The different surface finishes are indicated in Table 4. Finish No. 1, 2D and 2B are classified as mill finishes. Finish No. 3 and 4 are produced by mechanical polishing/grinding and are classified as polished/ground finishes. Some of these standard finishes may not be available on certain rolled products. However, other finishes may be mutually agreed upon between the purchaser and the manufacturer at the time of enquiry and order.

Table 4 Surface Finish

Condition (1)	Finish (2)	Description (3)	Remarks (4)
Hot rolled	a)No.1	Hot rolled, annealed and descaled (pickled)	Generally used for industrial application where heat and corrosion resistance is more important and smoothness and uniformity of finish are not important. Repair grinding marks may be present in local areas.
	b) 2D	Cold rolled, annealed and descaled (pickled)	A dull, smooth and uniform surface finish most suited for deep drawing applications.
	c) 2B	Cold rolled, annealed, descaled (pickled)	A smoother and brighter surface finish (as compared to 2D) most suitable for general applications

)and skin passed.	
	d) No.3	Coarse grit polished surface finish	A uniform polished surface finish obtained with coarse abrasives of 100-120 grit on one or both surfaces. Suitable for use as a finish polished surface such as for panelling or any other application requiring such surface finish
	e) No. 4	Standard polished surface finish	A standard uniform polished surface finish produced with abrasives of 120-150 grit size and the finish is finer than No. 3 finish. Suitable for general purpose polished finished used for panelling, appliances, equipment and architectural applications

The above shows that if cold rolled stainless steel sheets are annealed and descaled (pickled), then finish grade is to be taken as 2D and if in addition to above, skin passed is also there then its grade will be 2B and likewise further grades.

6.6 From the sample commercial invoices attached with the appeal, we find that grade 2B has been indicated against surface which shows that the imported goods apart from cold rolling, have also undergone the process of annealing, descaling and skin passed. The HSN Explanatory Notes under Chapter 72 (under the category IV (c) Subsequent manufacture and finishing), provide that the finished products may be subjected to further finishing treatments or converted into other articles by a series of operations such as mechanical working, surface treatment such as Annealing, Descaling, Pickling, Scraping and surface finishing treatment etc. Further from the Explanatory Notes Vol-IV, Chapter 71-74 of the World's Custom Organization 7th Edition (2022), it is noted that Chapter heading 7220 borrows and applies provisions of Explanatory Notes of Heading 72.1109, 72.12 & 72.10 which in turn borrows Explanatory notes of 72.08 and 72.09 mutatis mutandis. Therefore, multifarious processes are getting included in expression 'not further worked' to the products of heading 7220. We also find that Chapter Heading 72.11 permits certain processes and allows the same to be worked (for example corrugated, ribbed, chequered, embossed, bevelled or rounded at the edges) and heading 72.12 allows the products to be subjected to more than one type of coating, plating or cladding. Thus, there are processes which are allowed to be further carried out by heading 72.20. Similarly Heading 72.08 to 72.10 by virtue of borrowing, the products can be subjected to hot flattening, annealing, hardening, tempering, case-hardening, nitriding and similar heat treatments to

improve the properties of metal. It also permits descaling and various other processes. Similarly 72.09 and 72.10 also allow various processes to be done. Therefore, while deciding the classification, it is important to note as to what are the processes which have been carried out on the imported products and whether processes carried out are within the permissible limits of the heading including the Explanatory Notes of the borrowed headings. The imported goods therefore, need close scrutiny to arrive at the most preferred heading irrespective of what heading has been claimed by the party or has been sought in the Show Cause Notice by the department. We therefore, find that the issue is contentious and various considerations will come to the root of the matter to decide the exact nature of imported goods such as processes it has undergone, its grade, apart from its composition. In view of our above observation, we find that there is a scope of even going beyond the heading suggested by either party when exact nature of the product gets determined.

6.7 As regard invocation of extended period, we find that both factual as well as various legal considerations are involved in the present matters as discussed above, for determining correct classification of the imported goods. We further find that the SCNs have been issued by the department on the basis of information provided/ made available by the party. We therefore, are not inclined to allow invocation of extended period.

6.8 We also would like to address the issue of the Certificate of Origin being genuine or not? We find that we are concerned with a non-tariff notification which is seeking to give benefit of an international business treaty entered under a preferential agreement by framing Rules of Determination Of Origin Of Goods under Asia Pacific Trade Agreement Rules, 2006. We find substance in the infractions pointed out by the department. We are also aware that we are dealing with a non-tariff notification which though provides a preferential rate on tariffs as mutually Notification No. 94/2006-Cus (NT) dated 31.08.2006 agreed by the countries, has at the heart of it the underlying needs to increase trade between the treaty nations for mutual benefits. This notification deals with Rule on Determination Of Origin Of Goods under Asia Pacific Trade Agreement Rules, 2006. We find such beneficial rules are required to be liberally construed and applied by the Customs Authorities of all the nations. We find that the infraction noted by the department in the show cause notice need to be viewed properly from the angle as to whether

the same is only a procedural infraction or has led to a substantive lapse which would lead to denial of benefit to the party. This standard as being laid down by us need to be properly applied by the department.

6.9 We are therefore, inclined to remand the matter to the adjudicating authority in following terms:

1. To determine classification of Cold Rolled Stainless Steel strips in coil with indicated grade. While doing so, the adjudicating authority shall be mindful of various permitted processes under various heads as per borrowing chain of processes of Explanatory Notes, which are borrowing and further borrowing from various other heads of Chapter 72.
2. To determine whether discrepancy pointed out by the department in commercial invoices Vs Certificate of Origin has led to a mere procedural infraction or is something of substantive discrepancy, which deserves to deny concessional duty benefits, despite dealing with a trade promotional law, where liberal construction is warranted.
3. To determine differential duty and interest liability without invoking extended period.
4. To determine role of Directors and other individuals involved in the matter a fresh in terms of our above observations with regard to imposition of penalty on them.
7. The appeals are disposed of in above terms by way of remand.

(Order pronounced in the open court on 03.12.2025)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)