

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD**

REGIONAL BENCH - COURT NO.I

Customs Appeal No.70208 of 2020

(Arising out of Order-in-Appeal No.NOI-EXCUS-002-APP-1248-19-20 dated 05/12/2019 passed by Commissioner (Appeals) Central Goods & Service Tax, Noida)

M/s Elentec India Pvt. Ltd.,
(Plot No.57-1/1&2, Ecotech-1,
Extension-1, Noida-201306)

.....Appellant

VERSUS

**Commissioner of Central Excise &
CGST, Noida**

....Respondent

(C-56/42, Renu Tower, Sector-62, Noida-201306)

APPEARANCE:

Shri Pramod Kumar Rai, Advocate &
Shri Jayant Kumar, Advocate for the Appellant
Shri Santosh Kumar, Authorised Representative for the Respondent

**CORAM: HON'BLE MR. P.K. CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)**

FINAL ORDER NO.70049/2025

DATE OF HEARING : 27 August, 2024
DATE OF PRONOUNCEMENT : 31 January, 2025

SANJIV SRIVASTAVA:

This appeal has been filed challenging the Order in Appeal No NOI-EXCUS-002-APP-1248-19-20 DATED 05.12.2019 OF THE Commissioner (Appeal) Central Goods & Service Tax Noida. By the impugned order, order in original No 26/ADC/GBN/2018-19 dated 30.08.2018 holding as follows has been upheld:

ORDER

- (i) *I confirm the demand of Customs Duty amounting to Rs. 13,65,474.00 (Rupees Thirteen Lakhs Sixty Five Thousand Four Hundred Seventy Four only) and order the same to*

be recovered from M/s Elentec India Pvt. Ltd. (DTA Unit), Plot No.57/1 & 2, Ecotech-1, Extension-1, Greater Noida-201308, (U.P.), under Rule 8 of the Customs (Import of goods at Concessional Rate of Duty for manufacture of Excisable Goods) Rules 2016 read with Notification No. 12/2012-Cus dated 17.03,2012 as amended,;

(ii) I also confirm the demand interest on the Customs Duty amount as above; as per applicable rate under Section-28AA of the Customs Act 1962;

(iii) I also impose a penalty amounting to Rs.13,65,474.00 (Rupees Thirteen Lakhs Sixty Five Thousand Four Hundred Seventy Four only)in terms of Section 114A of the Customs Act, 1962 for contravening the provisions of Customs (Import of goods at Concessional Rate of Duty for manufacture of Excisable Goods) Rules 2016 read with Notification No, 12/2012-Cus dated 17.03,2012 as amended.

The dues adjudged shall be paid forthwith.

2.1 Appellant is engaged in the manufacture of Remote Control (85299090), Wiring Harness (85446020), LCD/ LED Cover & frames (85299090), Plastic Parts of Mobile, Telephone Sets (85171290) including telephones for cellular networks or for other wireless network; Other apparatus for the transmission (85171290), Routers/Modem; Apparatus for communication (85176930), Lithium-Ion Batteries (85076000), insulated (Including enameled or anodized.) Wire, Cable (including co-axial cable) and other Insulated electric conductors, Wheth (85444999), Electric Transformers, Static Convertors (For Ex rectifiers), 'Inductors, Static Convertors and Battery chargers (85044030) etc. of the First Schedule to the Central Excise Tariff Act, 1985. They were also availing the facility of CENVAT credit.

2.2 The appellant was also procuring imported raw material duty free under Customs (Import of Goods at concessional rate of Duty) Rules, 2016. [Notification No 12/2012-Cus dated

17.03.2012 as amended by notification No 12/2016-Cus dated 01.3.2016]

2.3 Appellant had imported raw materials namely 'Resins & PC Resin' by availing the benefit of said Notification as per SI No 431 F and 431 K, which was as per revenue was not admissible to them.

2.4 A show cause notice dated 04.04.2018 was issued to the appellant asking them to show cause as to why:

- (i) *Duty foregone amounting to Rs. 13,65,474.00 (Rupees Thirteen Lakhs Sixty Five Thousand Four Hundred Seventy Four only) discussed above should not be demanded and recovered from them under Rule 8 of the Customs (Import of goods at Concessional Rate of Duty for manufacture of Excisable Goods) Rules 2016.*
- (ii) *Interest should not be demanded and recovered from them at the appropriate rate under Section 28AA of the Customs Act 1962.*
- (iii) *Penalty in terms of Section 114A of the Customs Act, 1962 should not be imposed on them.*

2.5 The show cause notice was adjudicated as per the order in original referred in para 1 above.

2.6 Aggrieved appellant filed the appeal before Commissioner (Appeal) which has been dismissed as per the impugned order. Aggrieved appellant has filed this appeal.

3.1 We have heard Shri Pramod Rai Advocate for the appellant and Shri Santosh Kumar, Authorized Representative for the revenue.

3.2 Arguing for the appellant learned counsel submits that:

- The case of department as per the show cause notice is perverse.
- DGEP Circular dated 09.02.2007 to take care of this perversity leading to uneven playing field

- The interpretation adopted by revenue leads to absurd results and is contrary to principles laid down in following decisions.
 - South eastern Coalfields Ltd. [2006 (200) ELT 357 (SC)]
 - Arcelor Mittal Nippon Steel India Ltd. [2022 (379) 418 (SC)]
- Benefit of exemption notification No 12/2012-CE and 12/2012-Cus would be admissible to be the party as has been held by ADG while dropping the demand, placing reliance on the following decisions:
 - Star Paper Mills [1989 (43) ELT 178 (SC)]
 - Saraswati Sugar Mills [2011 (270) ELT 465 (SC)]
 - Khoday Distilleries (P) Ltd [1991 (82) STC 251 (Kar)]
 - Ferro Alloys Corpn Ltd [1997 (90) ELT 405 (T)]
 - Jindal Strips Ltd [1997 (94) ELT 234 (T-LB)]
 - Meridian Industries Ltd. [2015 (325) ELT 417 (SC)]
 - Vanasthali Textiles Industries Ltd. [2007 (218) ELT 3 (SC)]
- Alternatively the benefit of Notification No 24/2005-Cus should be admissible.
- The benefit of exemption could have been claimed subsequently even if the same is not claimed at the time of importation. Reliance placed on
 - Indosolar Ltd. [2019 (367) ELT 679 (T-All)]
 - Share Medical Care [2007 (209) ELT 321 (SC)]
 - HCL Ltd. [2001 (130) ELT 405 (SC)]
 - CIPLA Ltd. [2007 (218) ELT 547 (T-Chennai)]
 - Indian Petro Chemicals [1997 (92) ELT 13 (SC)]
- In any case no penalty is imposable.

4.1 We have considered the impugned order along with the submissions made in appeal and during the course of argument.

4.2 The impugned order records findings as follows:

5.1 I find that the core issue to be decided before me is whether the items 'Resins and PC Resin' are eligible goods/items of import to be considered as 'Parts, components and accessories' for use in manufacture of routers falling under tariff item 85176930; or Sub-parts for use in manufacture of items (i.e. Parts, components and accessories of routers falling, under tariff item 851769 30), for availing the Customs duty exemption under Customs (Import of goods at concessional Rate of Duty) Rules 2016 covered under entry at SI. No. 431F of Notification No. 12/2012-Cus dated 17.03.2012 as amended. And whether the items Resins & PC Resins are eligible goods/ items of import to be considered as Parts, components and accessories ' for 'use in manufacture of lithium- ion- batteries other than 'batteries of mobile handsets including cellular phones falling under tariff item 85076000; or Sub-parts for use in manufacture of items (i.e. Parts, components and accessories for use Lithium-ion- batteries (other than batteries of mobile handsets including cellular phones) falling under tariff item 85076000, for availing the Customs duty-exemption, under Customs (Import of goods at concessional Rate of Duty) Rules 2016 under entry at SI. No. 431K of Notification No. 12/2012-Cus dated 17.03.2012 as amended

5.2 Before proceeding further, it is pertinent to acquaint with the meaning/definition of the words i.e. Parts, Components & Accessories. I find that the definition of these words has been used by the Hon'ble Tribunal in various cases which is as below;

PART:- An element of a sub-assembly, not normally useful by itself and not amenable to further disassembly for maintenance purposes.

COMPONENT:- The term `component has been defined in the Concise Oxford Dictionary (Eighth Edition), published

by Oxford University Press, as under part of a larger whole?

The Export and Import Policy for 1992-97 has defined 'component' in para 7(10) as under

"Component' means one of the parts of a sub-assembly or assembly of which a manufactured product is made up and into which it may be resolved. A component includes an accessory or attachment."

ACCESSORIES:- The Apex Court in case of PRAGATI SILICONS PVT. LTD Versus COMMISSIONER OF C. EX., DELHI (Civil Appeal No. 5345 of 2001, decided on 26-4-2007) have referred to page 13 of the Black's Law Dictionary, Fifth Edition, wherein the term "accessories" has been defined as "anything which is joined to another thing as an ornament, or to render it more perfect, or which accompanies it, or is connected with it as an incident, or as subordinate to it, or which belongs to or with it, adjunct or accompaniment, a thing of subordinate importance. Aiding or contributing in secondary way of assisting or contributing to as a subordinate". Further the Apex Court held that "correct test would be whether the article or articles in question would be an adjunct or an accompaniment or an addition for the convenient use of another part of the vehicle or adds to the beauty, elegance or comfort for the use of the motor vehicle or a supplementary or secondary to the main or primary

The word accessories have been defined in McGraw Hill Dictionary, Vth Edition as "A part sub-assembly, or assembly that contributes to effectiveness of a piece of equipment without changing its basic function; may be used for testing, adjusting, or other purpose?."

5.3 On going through the above definitions and relevant Notification no. 12/2012-CUS dated 17.03.2012, I find that the exemption from customs duty under entries at SI. No. 431 F and 431K, respectively of the said Notification was

available specifically to the 'Parts, components and accessories' and to the 'Sub-parts' for use in manufacture of items (i.e. Parts, components and accessories) of the both the said items, not to the basic raw-materials of them as it had been admitted by the Party to the extent that items 'Resins & PC Resin' are the basic raw material for manufacture of moulded parts of their goods 'Routers falling under tariff item 851769300 and of 'Lithium-ion batteries' [other than batteries of mobile handsets including cellular phones] falling under tariff item 85076000. There is also no denying to the fact stated in the Party's contention that 'Resins & PC Resin' are contained in various manufactured moulded parts of both of their products i.e. 'Routers' and of 'Lithium-ion-batteries'.

5.4 I observe that the adjudicating authority in his impugned order had rightly concluded that "Parts', 'Components' and 'Accessories' may be described as the small 'piece of equipment' of some bigger system, machine or apparatus, which is essential for the working/functioning of the given System/Machine or Apparatus; and only after assembling/connecting of such 'Parts', 'Components' and 'Accessories' the given system/machine or apparatus completes in itself to work/ function properly in a manner for which it is meant and designed. Thus, to become a or to be eligible as a Part/Component'/. Accessory' essentially main basic ingredients/ constituents/ raw-materials are first need to be subjected to a process necessary (may or may not amounting to manufacture) to take a specific shape/form/design and size to acquire the essential characteristics of the product, of which it is a 'Part/'Component or 'Accessory' of As without any specific shape/design/ size and compatibility to the product, this small piece of equipment cannot be termed as its 'Part', 'Component' or 'Accessory'. Thus, basic constituents/ingredients/raw-materials without taking a definitive shape/ design/ size and compatibility to a specific

product and to designed play a specific role in manufacturing and functioning of that product, cannot be described as 'Parts'/ Components'/ 'Accessories'""

5.5. The party has alleged that adjudicating authority has travelled beyond the scope of Show Cause Notice vide para 5.5 and 5.6 of the impugned order where it is stated that use of imported resins and PC Resins in the manufacture of router and Lithium-ion-batteries could not be distinctly identified as no such allegation was made in the show cause notice. In this regard I agree with the findings of the adjudicating authority that the party, apart from Routers and Lithium-Ion Batteries, is also engaged in the manufacture of different products in the same premises itself and in most of which, plastic parts are essential for manufacturing of product; and impugned items Resin and PC Resin' definitely are the main constituents/raw-materials to some of them. In this situation the use/ consumption of 'Resins & PC Resin' imported duty free having availed Customs duty exemption under Customs (Import of goods at concessional Rate of Duty) Rules could not be distinctly identified from specific use in manufacture in Parts, components and accessories or subparts thereof and ultimately for the purpose for manufacture of 'Routers' and 'Lithium-ion batteries' (other than batteries of mobile handsets including cellular phones); and from the use in plastic moulded parts of other products being manufactured in same premise.

5.6 I observe that the party has further alleged that there is ambiguity in interpretation of applicability of duty exemption available specifically to the Parts, components and accessories and 'Sub-parts for use in the manufacture of items. I do not agree with the contention of the party as no ambiguity is seen in interpretation of applicability of duty exemption available specifically to the 'Parts, components and accessories and 'Sub-parts for use in the

manufacture of items (i.e 'Parts' 'components' and 'accessories') and not to the Raw-Materials' or 'Inputs'. If the statute/exemption Notification had any such intention, it would have mentioned as such, in Column (3) of the Notification ibid, as is mentioned in case of numerous other entries as, 'All Goods' and even as Raw Materials' or Inputs' as mentioned under various other entries at Sl. Nos, 121B, 431B, 431C, 431D, 447 and 469 of same Notification No.12/2012-Cus dated 17.03.2012 as amended. In this regard, I place my reliance on the recent Judgment dated 31.07,2018 of the Constitution Bench of the Honble Supreme Court in the case" of CC IMPORT MUMBAI Vs. M/s DILIP KUMAR & COMPANY, wherein rules on interpretation of tax exemption provision/ Notification when there is ambiguity as to its applicability w.r.t. entitlement of assessee or the rate of tax to be applied; holds that such exemption Notification should be interpreted strictly, and the burden of proving applicability would be on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification",; states further that;

"When there is ambiguity in exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject/assessee, and it must be interpreted in favour of the revenue"

5.7 Thus, I am of the view that the appellant have mis-declared their goods 'Resins & PC Resin' as 'Parts, components and accessories' and to the 'Sub- parts' for use in manufacture of items (i.e. Parts, components and accessories) of the both the items i.e. for use in manufacture of routers and of lithium-ion batteries and thereby contravened the provision of Rule 8 of the Customs (Import of goods at Concessional Rate of Duty for manufacture of Excisable Goods) Rules 2016, and rendered

themselves liable for penal provisions under Section 114A of the Customs Act, 1962.”

4.3 Basic issue involved in the matter is whether the benefit of Notification No 12/2012-Cus (S No 431F & 431K) can be extended to the respondent.

4.4 The said entries of the notifications are for sake of convenience a reproduced below:

Sl No	Chapter or Heading or sub-heading or tariff item	Description of goods	Standard rate	Additional duty rate	Condition No
431F	85 or any other chapter	(a) Parts, components and accessories for use in manufacture of routers falling under tariff item 8517 69 30; (b) Sub-parts for use in manufacture of items mentioned at (a) above.	Nil	Nil	5
431F	85 or any other chapter	a) Parts, components and accessories for use in manufacture of lithium-ion batteries [other than batteries of mobile handsets including cellular phones] falling under tariff item 8507 60 00; b) Sub-parts for use in manufacture of items mentioned at	Nil	-	5

		(a) above.			
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5	If the importer follows the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996.
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4.5 From perusal of entry at S No 431 F and 431 K, of the custom notification, it is evident that exemption has been granted to all parts, components, accessories and sub parts of these, for the manufacture of mobile handsets, battery chargers, PC connectivity cables, Memory cards and hands-free headphones of mobile handsets. The phrase used in the said entry is "for the manufacture of" and not "of". Thus anything which goes into the manufacture of these items would be eligible to exemption under the said entry of this notification. It is settled position in law that the exemption notification need to be construed strictly as per the words and phrase used in the notification. From the phrase used we are of the view that this phrase would cover all the items that are consumed directly or indirectly for the manufacture of these items. Similar expressions were used while defining the "Capital Goods" as per Rule 57 Q of the Central Excise Rules, 1994 and Hon'ble Supreme Court has in the case of Jawahar Mills Ltd. [2001 (132) E.L.T. 3 (S.C.)] interpreted the said phrase to be very wide to cover all things used in the factory of production to be covered by the said definition. The observations made by Hon'ble Apex Court are reproduced below:

2. Rule 57Q was introduced by Notification No. 4/94-C.E., dated 1st March, 1994. It enabled manufacturers to claim Modvat credit of duty paid on 'Capital goods' used in their factory. The expression 'Capital goods' has been defined in the Explanation to Rule 57Q. For the proper appreciation of the controversy between the parties, it would be convenient to reproduce Rule 57Q along with its Explanation. It reads as under :

"57Q Applicability. - (1)

Explanation. - For the purposes of this section, -

(1) 'capital goods' means-

(a) machines, machinery, plant, equipment, apparatus, tools or appliances used for producing or processing of any goods or for bringing about any change in any substance for the manufacture of final products;

(b) components, spare parts and accessories of the aforesaid machines, machinery, plant, equipment, apparatus, tools or appliances used for aforesaid purpose; and

(c) moulds and dies, generating sets and weigh-bridges used in the factory of the manufacturer.

(1)

(2)"

3. The Tribunal by the impugned judgment and order dated 13th April, 1999, considered various items which were involved in different appeals and by a common judgment and order decided the controversy in favour of the manufacturers rejecting the stand of the revenue that those are not 'Capital goods' within the meaning of Explanation (1)(a) defining 'Capital goods'. Some of the items considered by the Tribunal are : power cables and capacitors in case of Jawahar Mills Ltd.; control panels, cables distribution boards, switches and starters and air compressors in the case of Indian Refrigeration Co. Ltd.; electric wires and cables in the case of Kothari Sugar and Vijay Chemicals. The Tribunal on consideration of the aforesaid provision and various decisions including some of this Court one of it being by a Bench of which one of us (Bharucha, J.) was a member of [Indian Farmers Fertilisers Cooperative Ltd. v. Collector of Central Excise, Ahmedabad - 1996(86) E.L.T. 177 (S.C.) = (1996) 5 S.C.C. 488] came to the conclusion that the items involved qualify as 'Capital goods' under Rule 57Q and would thus be eligible for Modvat credit. The Tribunal did not accept the contention of

the Revenue that the items were not 'Capital goods' within the meaning of terms as defined in Explanation (1).

4. The aforesaid definition of 'Capital goods' is very wide. Capital goods can be machines, machinery, plant, equipment, apparatus, tools or appliances. Any of these goods if used for producing or processing of any goods or for bringing about any change in any substance for the manufacture of final product would be 'Capital goods', and, therefore, qualify for availing Modvat credit. Per clause (b), the components, spare parts and accessories of the goods mentioned in clause (a) used for the purposes enumerated therein would also be 'Capital goods' and qualify for Modvat credit entitlement. Clause (c) makes moulds and dies, generating sets and weigh bridges used in the factory of the manufacturers as capital goods and thus qualify for availing Modvat credit. The goods enumerated in clause (c) need not be used for producing the final product or used in the process of any goods for the manufacture of final product or used for bringing about any change in any substance for the manufacture of final product and the only requirement is that the same should be used in the factory of the manufacturer. Thus, it can be seen that the language used in the explanation is very liberal.

5. In the case of Indian Farmers Fertiliser Cooperative Ltd. (supra) this Court interpreted the notification which conferred exemption in respect of such raw naphtha as was used in the manufacture of ammonia provided such ammonia was used elsewhere in the manufacture of fertilizers. The facts of that case were that the appellant was manufacturer of urea - a fertilizer and utilized for that purpose raw naphtha. The question therein was whether ammonia used in the off-site plants was also ammonia which is "used elsewhere in the manufacture of fertilizers". The off-site plants were held to be part of the process of the manufacture of urea. Relying upon the phraseology used in

the exemption notification, it was held that there was no good reason why the exemption should be limited to the raw naphtha used for producing urea that is utilized directly in the urea plant since the notification only required that the ammonia should be used in the manufacture of fertilizers and not that it should be used directly in the manufacture of fertilizers. The Court said that :

"The exemption notification must be so construed as to give due weight to the liberal language it uses. The ammonia used in the water treatment, steam generation and inert gas generation plants, which are a necessary part of the process of manufacturing urea, must, therefore, be held to be used in the manufacture of ammonia and the raw naphtha used for the manufacture thereof is entitled to the duty exemption."

6. The contention of learned Additional Solicitor General that the aforesaid decision and other decisions referred by the Tribunal in the impugned order were cases involving sales tax and income tax and, therefore, the Tribunal should not have relied on those decisions is without any substance because the real question is that of the principle laid down by a decision. In view of the liberal language of the provision; Mr. Rohtagi fairly and very rightly did not seriously dispute that if any of the items enumerated in explanation 1(a) is used for any purpose mentioned therein for the manufacture of final products, it would satisfy the test of 'Capital goods'. The main contention of Mr. Rohtagi, however, is that the question whether an item falls within the definition of 'Capital goods' would depend upon the user it is put to. The submission is that parts of the items in respect whereof availing of Modvat credit has been allowed by the Tribunal could not be treated as 'Capital goods' as the manufacturer could not establish that the entire item was used in the manufacture of final product. To illustrate his point, Mr. Rohtagi submitted that part of a cable may go

into the machine used by the manufacturer and, thus, may qualify the requirement of clause 1(a) and, at the same time, another part of the cable which is used only for lights and fans would not so qualify. We have no difficulty in accepting the contention of the learned Additional Solicitor General that, under these circumstances, user will determine whether an item qualifies or not the requirement of clause 1(a). However, in the present cases this aspect has no relevance. It was not the case of the revenue at any stage before the authorities that an item does not satisfy the requirement of 'Capital goods' within the meaning of the Rule on the ground of its user as it now sought to be urged by the learned counsel. The case of the revenue has all through been that the items in question per se are not 'Capital goods' within the meaning of the expression as defined in Explanation 1(a)."

4.6 The larger bench of tribunal has in case of Jawahar Mills [1999 (108) E.L.T. 47 (T-LB)] interpreting the same phrase has observed as follows.

35. *It has been contended that producing means bringing into existence a new article from raw material and processing signifies an operation for bringing about any change in any substance for the manufacture of the final product. However, we are concerned with the meaning of the expression 'used for producing or processing'. The said expression would not, to use the language of the Supreme Court in J.K. Cotton Spg. & Wvg. Mills Co. Pvt. Ltd. be limited to ingredients or commodities used in the process or those directly and actually needed for turning out or the creation of the goods.*

4.7 The way in which the revenue has sought to interpret the expression used in the notification can be only by way of replacing the word "for" used in the notification by the word "of". We refer to explanation in this regard available on web-page "<https://english.stackexchange.com/questions/>

"Refractory bricks, blocks, tiles and similar refractory ceramic constructional goods, other than those of siliceous fossil meals or similar siliceous earths"

Sub-heading 6902.10 read as follows :

"Containing by weight, singly or together, more than 50% of the elements Mg, Ca or Cr, expressed as MgO, CaO or Cr₂O₃". 85%

Sub-heading 6902.20 read as follows :

"Containing by weight more than 50% of alumina (Al₂O₃), of Silica (SiO₂) or of a mixture or compound of these products". 85%

Chapter 84 of the new tariff deals with machinery and parts thereof. Chapter Note 1(a) of Chapter 84 excluded articles of Chapter 68 from the purview of Chapter 84. Chapter Note 1(b) of Chapter 84 excluded appliances and machinery or parts thereof of ceramic material (Chapter 69) from the purview of Chapter 84. under the new tariff refractory bricks would fall under Chapter 69 (tariff rate of duty was 85%). Thus it became necessary to issue Notification No. 242/76 to maintain the rate of duty at the old level. The notification exempted refractory bricks of special shape or quality for use as component parts of industrial furnaces falling under Heading 69.02 of the First Schedule to the Customs Tariff Act, 1975, from so much of that portion of the duty of customs leviable thereon which is specified in the First Schedule as is in excess of 40% ad valorem. Notification No. 77/90 was issued in the same terms. This notification also exempted another item 'soft ferrite' under Chapter Heading 69.09 from duty in excess of 55% ad valorem. The exemption in regard to auxiliary duty of customs was provided in Notification 112/87. Item 28 of the Table took in "Refractory Bricks of special shape or quality for use as component parts of industrial furnaces" of Chapter 69 of the Customs Tariff Act, 1975.

12. "Part" is defined in Black's Law Dictionary Sixth Edition at page 1117 as under :-

"An integral portion, something essential belonging to a larger whole; that which together with another or others makes up a whole a portion, share or purpart".

In Chambers 20th Century Dictionary the meaning given for "component" is as under :-

"one of the parts or elements of which anything is made up, or into which it may be resolved".

In Oxford Dictionary the meaning of "component" is :-

"Contributing the composition of whole"

In Webster's Dictionary the meaning given is

"A part; a constituent, an ingredient."

In our view, the common parlance meaning of the expression "component" is also the same, that is, one of the parts or elements of which anything is made up or into which it may be resolved or a constituent. The meaning in common parlance has to be looked into since the notification itself does not contain any definition of the expression.

13. Several decisions of High Courts containing reference to "part", "component" or spares have been placed before us in the course of submissions. In C.S.T. v. Amar Radio Cabinet Works - 1968 (22) STC 63 (Bom. HC) entry No. 65 in the Bombay Sales Tax Act referring to wireless apparatus, radiographs, loudspeakers etc. and spare parts of wireless equipments and radiographs was considered. The question was whether radio cabinets sold by a dealer would attract entry 65 or the residuary entry 22. It was held that while the word "part" has a general sense, "spare part" takes colour from the word "spare", that is a part which would require replacement in ordinary course on account of wear and tear and would not have the amplitude of the word "component". It was indicated that the owner of radio will

not ordinarily keep an extra cabinet spare and, therefore, cabinet cannot be regarded as a spare part, though it is a component of radio and, therefore, entry No. 65 would not apply. In Commissioner of Sales Tax v. Pritam Singh - 1968 (22) STC 414 (All. HC) the question arose in the context of manufacture of bodies of motor vehicles. Item 24 of the exemption notification referred to motor vehicles and component parts of motor vehicles. It was held that a component part of an article is an integral part necessary for the constitution of the whole article and without it the article will not be complete and body of a motor vehicle being an integral part of the motor vehicle has to be regarded as a component part. In Sujan Singh & Another v. A.A.C. Sales Tax - 1969 (24) STC 504 (Delhi HC) the question was whether the body of motor vehicle is a spare part within the meaning of the entry "motor vehicles including chassis of motor vehicles, motor tyres and tubes and spare parts of motor vehicles" under item 1 of first schedule to the Bengal Finance (Sales Tax) Act. It was held that spare part is an extra part kept for use in emergency for replacement, that every component will not be a spare part and no owner of vehicle would keep a body of motor vehicle as spare part and, therefore, it cannot be regarded as a spare part. In Bajoria Halwasiya Service Stn. v. The State of Uttar Pradesh - 1970 (26) STC 108 (All. HC) a similar question arose under the provisions of the U.P. Sales Tax Act and a notification issued thereunder. It was held that body of a motor vehicle is not a spare part, though it is a component since a spare part means a part kept in readiness for use in emergency and no owner of vehicle will keep body of a vehicle in readiness for use in emergency. It was held that every component part need not be a spare part while every spare part will necessarily be a component part.

14. In Paul Lazar v. State of Kerala - 1977(40) STC 437 (Kerala HC) it was held that copper wire used in

manufacture of transformers is not a component part thereof. It was indicated that component part has to be an identifiable object and copper wire used in the manufacture of transformer is not an identifiable object.

15. In Ghaziabad Engg. Co. (P) Ltd. v. Commr. of Sales Tax - 1991 (80) STC 243 (Delhi HC) under the provisions of the Bengal Finance (Sales Tax) Act, the court considered entry 1 of first schedule of Bengal Finance (Sales Tax) Act, namely, motor vehicles, including motor vehicles tyres and tubes and spare parts of motor vehicles and held that fuel injection pump, which is a part of diesel engine is a component part of the diesel engine and not a component part of the motor vehicle and, therefore, the fuel injection pump sold as a spare part would not be a spare part of motor vehicle. In Khoday Distilleries (P) Ltd v. Commr. of Commercial Taxes, Karnataka - 1991 (82) STC 251 (Karnataka HC) it was held that molasses used in the manufacture of Ethyl alcohol can be identified by chemical test and, therefore, is a component part of the end product. The Supreme Court in State of Madras v. R.M.K. Krishnaswami Naidu and Others - 1970 (26) STC page 42 has taken a similar view. In State of Tamil Nadu v. Tube Investments of India Ltd. - 1992 (85) STC 245 (Madras HC) it was held that dynamo of a cycle is not a component part but an accessory of cycle. In Televista Electronics v. Commr. of Sales Tax - 1992 (87) STC 410 (Delhi HC) in considering the entry relating to wireless receiving instruments and spare parts and accessories in the schedule to the Bengal Finance (Sales Tax) Act, it was held that a spare part is always a component part but the converse may not be invariably true.

15. In Star Paper Mills Ltd. v. Collector of Central Excise - 1989 (43) E.L.T. 178 (S.C.), the Supreme Court held that paper core used for rewinding of paper in rolls is a component part within the meaning of Notification No.

201/79. The court relied on the dictionary meaning of the word "component" as "a constituent part". Since use of paper core is necessary for rewinding of paper if delivered to the customers in rolls, it should be a component part within the meaning of the Notification.

16. Notifications 246/76, 77/90 and 112/87 do not define the word "component part" with the result that one has to go by the meaning the word carries in common parlance. The dictionary meaning of "component" is "one of the parts or elements of which anything is made of or into which it may be resolved", or "a constituent part" and this meaning has been accepted by the Supreme Court in *Star Paper Mills Ltd. - 1989 (43) E.L.T. 178*. Much is sought to be made out of the meaning stated as "constituent part". The suggestion is that it must be a part in the initial constitution of the manufactured product. This suggestion is merely based on a priori assumption. "Constituent", according to *Chambers 20th Century Dictionary* means :-

"constituting or forming; essential; elemental; component; electing; constitution-making - n. an essential or elemental part; one of those who elect a representative, esp. in parliament; an inhabitant of one's constituency."

Thus, "constituent" only means an essential part or component. Use of the words "component parts" or "constituent parts" is an example of tautology. "Constituent" and "component" essentially mean the same thing, that is, an essential part of which anything is made of or into which it may be resolved. When parts are put together to create an end product, they are regarded as component parts. When an assembled product is dismantled, it gives rise to component parts. Whatever be the stage, that is, before assembling, after assembling and after dismantling, such essential are [integral] part is a component, when a component part is damaged or is worn out and therefore requires replacement and is replaced, the replacing part

does not cease to be a component part because it was not present in the initial assembly and had been put in the place of a damaged or worn out component part. The much wider meaning given to the expression "component" in Khodey Distilleries (P) Ltd. v. Commissioner of Commercial Taxes, Karnataka and Others - 1991 (82) STC 251 (Kar. HC) and in State of Madras v. R.M.K. Krishnaswami Naidu & Ors. - 1970 (26) STC 42 (SC) does not affect this position. A spare is a replacement part, to replace a damaged or worn out component; nevertheless it is a component part.

17. "Component" is the genus and "spare" is a species that is, component which is used for replacement. If all that is available is the use of the expression "component" or "component part", the usage must be understood in its normal connotation, in the absence of any specific qualification or restriction. There are several notifications where such qualifying or restrictive words have been used to suggest that the component part must have been used in the initial assembly or in the manufacture of the final product thereby excluding "spare" from the ambit of the expression "component part". There are no such qualifying or restrictive words used in the notifications under consideration. Hence, with respect, it is not possible to agree with the view taken in some of the decisions of the Tribunal that "component" implies parts used in the initial assembly or manufacture and excludes "spares". The amplitude and significance of the word "component" cannot be cut down in the absence of clear words indicative of any intention to restrict its meaning and operation. The view taken in Vaz Fowarding Pvt. Ltd. - 1989 (43) E.L.T. 358 (Tribunal) was not followed in Metal Impacts Pvt. Ltd. - 1993 (64) E.L.T. 286 (Tribunal), but the distinction drawn based on the fact that the words "component parts" occur in isolation and not in conjunction with the final product is a distinction without difference. The amplitude of the words "component part" is not in any way restricted by using the

words in conjunction with the article of which they are component parts.

18. We indicated that there are a large number of Notifications using appropriate language to bring out an intention to restrict the scope and amplitude of the word "component". The following table refers to the particulars :-

<i>S No.</i>	<i>Notification No.</i>	<i>Language used</i>
	<i>82/60</i>	<i>Component parts of any machinery required for the purpose of initial setting up of that machinery or for its assembly or manufacture</i>
	<i>80/70</i>	<i>Imported as replacement for defective component parts or peripherals</i>
	<i>117/70</i>	<i>Spare parts required for the purpose of manufacture</i>
	<i>74/85</i>	<i>Components are imported for the purpose of providing warranty coverage or after sales service by the manufacturer to his customers</i>
	<i>77/85</i>	<i>-Do-</i>
	<i>503/86</i>	<i>-Do-</i>
	<i>155/86</i>	<i>Parts required for the purpose of initial setting up or assembly or manufacture</i>
	<i>158/86</i>	<i>Components required for the manufacture of goods</i>
	<i>66/88</i>	<i>Component parts of goods covered by Notification No. 65/88 imported into India for the manufacture of the said goods</i>
	<i>269/88</i>	<i>Components required for the manufacture of forklift trucks</i>
	<i>97/89</i>	<i>Parts required for the manufacture of specified goods when imported into India by a manufacturer of such goods</i>
	<i>106/92</i>	<i>Components and parts when imported into India for repair of dredges.</i>

In the above Notifications, wherever it was intended to restrict the amplitude and significance of the word "component", specific and appropriate language was used to bring out the intention. The Notifications contain illustration of intention to restrict the meaning of components as those to be used in assembly or manufacture or as spare. It is obvious that the word "component" includes "spare" and

has very wide connotation and this position fully supports the view we have taken. Shri D.S. Negi, SDR in dealing with the above position, referred to following Notifications :-

<i>S No.</i>	<i>Notification</i>	<i>Language used</i>
<i>1</i>	<i>13/81-Cus.</i>	<i>Capital goods, Raw materials components imported for the purpose of manufacture of articles for export out of India by 100% export oriented undertakings</i>
<i>2</i>	<i>262/81-Cus.</i>	<i>Machinery, Raw materials, components, spare parts of machinery, consumables, packaging materials, office equipment, spares and consumables thereof, Tools, jigs, gauges, fixtures and accessories proto types, technical and trade samples for development and diversification, Drawings, Blue prints and charts etc..... imported for the production of goods for export or for being used in connection with the production or packaging of goods for export or for the promotion of such export by units.....</i>
<i>3</i>	<i>256/87-Cus.</i>	<i>Capital goods, raw materials, components, spares of production machinery, consumables etc. imported by or on behalf of the gem and jewellery units set up in Export processing zone for manufacture of jewellery for export by</i>
<i>4</i>	<i>260/87-Cus</i>	<i>-Ditto-</i>
<i>5</i>	<i>3/88-Cus.</i>	<i>-Ditto-</i>
<i>6</i>	<i>277/90</i>	<i>-Ditto-</i>

He points out that these notifications refer to components as well as spare parts and indicated that they refer to different articles, namely, parts used for first assembly or manufacture on the one hand and spares used for replacement. Notification No. 13/88 refers to raw materials, components and not spares, while the remaining notifications refer to both components and spare parts along with consumables, raw materials etc. These notifications indicate only an exercise to cover the main goods (capital goods or machinery) and all other articles connected thereto and necessary to set up and run export oriented production units. The fact that care has been taken to furnish an exhaustive list is not sufficient to give rise to an inference that word "component part" will necessarily exclude from its scope "spare parts" also.

19. It has been urged on behalf of the department that since the subject Notifications refer to "Refractory Bricks for use as component parts of.....", that is an indication that the Bricks must be intended for use in the manufacture of furnace and not for use as spares. We have indicated that the word "component" cannot be understood in such a restricted manner. "Component" indicates that it must be an integral part. "Spare" is a component used for replacement. In other words, the word "component" indicates the nature of the article and not the user of the article while the word "spare" indicates the use to which the article is put and not the nature of the article. The nature of the spare is that it is a component and its use is as replacement. "Component" means an essential or integral part of the whole. Its user is in different contexts, in the initial manufacture or as spare. As already indicated, "component" is the genus and spare is a species. The word "component" without any qualifying or restrictive words must be allowed free play and must comprehend components used for initial manufacture or for replacement.

20. Reference is made to the treatment given to these words in Import-Export Policies of different years. The following definitions occur in 1992-97 Policy :-

"Component means one of the parts of a sub-assembly or assembly of which a manufactured product is made up and into which it may be resolved. A component includes an accessory or attachment."

"Spares means a part or a sub-assembly or assembly for substitution, that is ready to replace an identical or similar part or sub-assembly or assembly. Spares include a component or an accessory."

Care has been taken to bring out that "spare" comprehends "component". The definitions in 1985-88 Policy are as follows :-

"Component means one of the parts of a sub-assembly or assembly of which a manufactured product is made up and into which it may be resolved and includes an accessory or attachment."

"Spare means a part or sub-assembly or assembly for substitution i.e. ready to replace an identical similar part or sub-assembly or assembly, if it becomes faulty or worn out, and includes an accessory (attachment) in the same regard."

The two sets of definitions are almost identical except that according to 1992-97 Policy, spare includes component. This, in our opinion is clarificatory of the correct position, namely, that while every spare is a component, every component may not be a spare as illustrated by the decisions in Commissioner of Sales Tax v. Amar Radio Cabinet Works - 1968 (22) STC 63 (Bom. HC), Sujan Singh and Another v. Appellate Asstt. Commissioner of Sales Tax - 1969 (24) STC 504 (Delhi HC), Bajoria Halwasiya Service Station v. The State of Uttar Pradesh and Another - 1970 (26) STC 108 (All. HC) and Televista Electronics (P) Ltd. v. Commissioner of Sales Tax - 1992 (87) STC 410 (Delhi HC). The broad definitions of component and spare given in the Policies are only a reflection of the dictionary-meaning which we have already considered as supporting the stand taken by the assessee. The inclusive definition of spare in 1992-97 Policy does not go against it.

21. In The Tata Oil Mills Co. Ltd. v. Collector of Central Excise - 1989 (43) E.L.T. 183 (SC) the provisions of Notifications 46/72 and 25/75 came up for consideration. The Notifications allowed rebate or exemption in case rice bran oil is used in the manufacture of soap. The oil has to be purified before use in the soap manufacturing process. Purification and manufacture were attended to by the assessee in two different factories. The court rejected the contention of the department that the Notifications were not

attracted since the oil was not directly used in the manufacture of soap. Hydrogenated Rice bran oil did not cease to be rice bran oil. The court observed as follows :-

".....an assessee claiming relief under an exemption provision in a taxing statute has to show that he comes within the language of the exemption. But, in trying to understand the language used by an exemption notification, one should keep in mind two important aspects : (a) the object and purposes of the exemption and (b) the nature of the actual process involved in the manufacture of the commodity in relation to which exemption is granted..... so far as (a) is concerned, the object of the notification - even as the Tribunal finds - is to grant a concession to a manufacturer of soap who manufactures soap from rice bran oil to a substantial extent and thus discourage the use of edible oils in the manufacture. If these two aspects are considered together, it is clear that the emphasis in the notification is not that rice bran oil should be used as raw material in the very factory which produced the soap.

The requirement is that the soap manufacture should, to a prescribed extent, be from rice bran oil as contrasted with other types of oil. The contrast is not between the use of rice bran oil as opposed to rice bran fatty acid or hydrogenated rice bran oil, the contrast is between the use of rice bran oil as opposed to other oils. That is the ordinary meaning of the words used. These words may be construed literally but should be given their fullest amplitude and interpreted in the context of the process of soap manufacture. There are no words in the notification to restrict it to only cases where rice bran oil is directly used in the fatty acid derived from rice bran oil. The whole purpose and object of the notification is to encourage the utilisation of rice bran oil in the process of manufacture of soap in preference to various kinds of oil (mainly edible oils) used in such manufacture and this should not be defeated by an

unduly narrow interpretation of the language of the notification even when it is clear that rice bran oil can be used for manufacture of soap of the only after its conversion into fatty acid or hydrogenated oil."

(Emphasis supplied)

22. *We have considered the matter in the light of the guidelines formulated by the Supreme Court. The furnace, the final product is made of layers of sheets put together and inner sides are lined with Refractory Bricks of special shape or quality which could withstand high temperatures. After some time, the Refractory Bricks get damaged or suffer wear and tear and are no longer fit for the purpose for which they are used in the lining and require to be replaced. For a long period prior to the coming into force of Central Excise Tariff, under erstwhile T.I. 72(3), tariff rate of duty of all component parts of machinery, namely, such parts as are essential for the working of the machine and have been given for that purpose some special shape or quality was 40%. There is no dispute that erstwhile T.I. 72(3) covered spares also. With the coming into force of Central Excise Tariff Act, 1975, under sub-heading 6902.01, the prescribed rate of duty was 85%. The statement of objects and reasons of the new Act indicated intention to maintain old level of effective duty by issuing appropriate exemption notifications. It was with this object that Notification No. 242/76 was issued exempting Refractory Bricks of special shape or quality for use as component part of Industrial Furnaces falling under Heading 69.02 from so much of the portion of the duty as is in excess of 40% ad valorem. Notification No. 77/90 continued this state of affairs. There is nothing in this background or the terms of the Notifications to indicate any intention to maintain the level of duty only in regard to Refractory Bricks used in initial assembly or manufacture of Furnaces and not to maintain the level of effective rate of duty in respect of*

Refractory Bricks used as spares. The language used in the Notification is clear, unambiguous and of wide import. Considering the process involved and the broad object, import and language of the Notifications, the absence of any words of restriction or qualification, any restrictive interpretation will lead to frustration of the underlying object and cannot be adopted. On a reasonable interpretation, it is clear that application of the Notification is not restricted to cases of intended use in initial assembly or manufacture of Furnace and covers cases of intended use as spares also.

*23. It is contended on behalf of the department that meaning of words used in one statute cannot be used in interpreting the words used in another statute, without reference to the subject matter or the context or the language used in the two statutes. The proposition canvassed is unexceptionable. This proposition is projected to contend that the various decisions of the Supreme Court and the High Courts which arose under Central Excise Law or Sales Tax Law cannot be adopted in this case. The decision of Supreme Court in *Star Paper Mills Ltd. - 1989 (43) E.L.T. 178 (SC)* dealing with an exemption Notification in relation to Central Excise duty applied only dictionary meaning of "component part" which had not been defined in the Notification. The various decisions of High Courts referred to earlier under relevant Sales Tax statutes also deal with the expression "component parts" also not defined in those statutes and the High Courts resorted to dictionary meaning or popular meaning. In the Notification under our consideration also, "component part" has not been defined and we have gone by the dictionary meaning which is also the popular or common parlance meaning and to that extent the decisions have relevance.*

24. Appellant has placed reliance [on] Circular No. 8/88 dated 12-4-1988 of the Central Board of Excise and

Customs issued on a representation claiming that Refractory Bricks use in Electric Arc Furnace for the manufacture of steel must be treated as input for the purpose of availing Modvat credit under Rule 57A of the Central Excise Rules, 1944. The Board indicated that Refractory Bricks "are used in Electric Arc Furnace for giving inner lining which become an integral part of Electric Arc Furnace (Machinery). Therefore the same would not be eligible for Modvat credit." A Larger Bench of the Tribunal has held that parts of machinery are not excluded from the purview of Modvat scheme. However, the view of the Board that Refractory Bricks became an integral part of Furnace supports the view taken by us which is that an integral part of Furnace must certainly be regarded as "component part" of Furnace"

4.10 Now coming to issue of fulfillment of the condition specified by SI No 5 of Notification No 12/2012-Cus. We find that this issue is squarely covered by the decision of Ahmedabad bench in the case of Salora Components Pvt Ltd. [2019 (370) ELT 925 (T-Ahmd)] holding as follows:

"4.

As regard the entitlement of the exemption notification Nos. 25/1999-Cus., dated 28-2-1999 and 25/2002-Cus., dated 1-3-2002, we find that the lower authorities have denied this exemption only on the ground that the appellant have not followed the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996. In this regard we find that in the peculiar facts of the present case, initially when the goods were imported, the same were received in the factory of the appellant who was 100% EOU and admittedly used within the 100% EOU. The exemption is claimed only at the time of debonding of 100% EOU. The procedure provided under Customs Rules, 1996 is mainly for the purpose of movement of goods from port of Custom up to the factory and use thereof. In the present case, since the goods were imported by 100% EOU which

were cleared under notification 52/2003-Cus., dated 31-3-2003. Even as per this notification, the goods are cleared on the presentation of the exemption certificate issued by the jurisdictional officer and on that basis, the movement of goods from the port up to the factory of the appellant is done under bond. More or less the similar procedure is followed either in notification 52/2003 or under notification 25/1999-Cus. and 25/2002-Cus. Therefore, the movement of goods imported by the appellant from Custom port up to the factory as well as use thereof is completely within the monitoring of the department. Even in the case of procedure prescribed under Customs Rules, 1996, similar procedure is followed. Therefore, even if the procedure of Customs Rules 1996 was not followed but practically the similar procedure was followed with reference to notification 53/2003-Cus., if any lapse on the part of the appellant it is mere procedural lapse. For this reason, the substantial benefit of notification Nos. 25/1999-Cus. and 25/2002-Cus. cannot be denied. The judgments cited by the Ld. Commissioner (A) is in the facts of the case where the goods are cleared from the Customs and received by DTA unit which are not under the control of Customs/Excise department whereas the facts of the present case is different as the appellant is a 100% EOU. Therefore the judgments cited by Revenue stand distinguished. As per the above discussion, we are of the view that the appellant is entitled for exemption under notification 25/2002-Cus. and 25/1999-Cus. Accordingly, the impugned order is set aside. Appeals are allowed."

4.11 Similar Clarification has been issued by the Director General Export Promotion vide his letter issued from F.No. DGEP/EOU/450/2006 dated 09.02.2007. The relevant text is reproduced below:

"2.The matter has been examined. It is seen that parts, components and accessories of mobile handsets including

cellular phones are exempted from basic customs duty, additional duty of customs under Section 3 (1) and Section 3 (5) of the Customs Tariff Act, 1975 under notification no.21/2005-Cus dated 01.03.2005 and 39/2005-Cus dated 02.05.2005 with a condition that the importer has to follow the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996. These parts, components and accessories of mobile hand sets including cellular phones are also exempted from excise duty under notification no. 6/2006-C.E. dated 01.03.06 as amended with a condition for the manufacturer to follow the procedure set out in the Central Excise (Removal of Goods at Concessional rate of Duty for Manufacture of Excisable Goods) Rules, 2001. The DTA manufacturers of mobile phones are thus entitled to import/ indigenously procure parts, components and accessories of mobile handsets including cellular phones free of duty under the aforesaid notifications whereas EOU units are being denied the benefit of these notifications.

3. Such parts, components and accessories imported/procured indigenously by an EOU are used for manufacture of mobile hand sets including cellular phones in their licensed premises under Section 58 & 65 of Customs Act, 1962. It follows the provisions of Manufacture & Other Operations in Warehouse Regulations, 1966 and executes a bond B-17 binding itself in respect of duties of the imported/indigenous goods, to maintain records of receipt, consumption and balance in stock and to pay duty on inputs in case they are not used in connection with production within a period of three years along with interest. Further, EOU follows procedure of procurement certificate/ CT-3 certificate for import/indigenous procurement, gives information of receipt of the goods which are physically verified and warehoused by the officer-in-charge and re-warehousing certificates are issued. These are mandatory features of the EOU scheme for the unit operating under EOU

notification 52/2003-Cus and 22/2003-CE. Thus an EOU following such a procedure substantially satisfies the requirements of the Rules to be followed as stipulated under the notifications 21/2005-Cus dated 01.03.2005, 39/2005-Cus dated 02.05.2005 and 6/2006-C.E. dated 01.03.2006.

4.Despite observance of the provisions of the above rules in spirit, if EOUs are denied exemption on parts, components and accessories on the ground that these notifications are not applicable to EOUs, it would put EOU manufacturers at a disadvantageous position vis-avis DTA manufacturers. This is not the intention behind the relevant provision of EOU notification 52/2003-Cus and 22/2003-CE. Accordingly, it is hereby clarified that exemption of customs and central excise duties on parts, components and accessories of mobile handsets including cellular phones under notification no. 21/2005-Cus dated 01.03.2005, 39/2005-Cus dated 02.05.2005 and 6/2006-C.E.dated 01.03.2006 shall be applicable for EOUs, if all substantive conditions of rules required to be followed under these notifications are fulfilled by an EOU to the satisfaction of the jurisdictional Asstt./ Dy. Commissioner of Customs or Central Excise, as the case may be."

4.12 Reliance placed by the Commissioner (Appeal) on the decision of Hon'ble Supreme Court in case of Dilip Kumar & Co, is totally uncalled for. We find in our discussions as above that there is no ambiguity in the Notification under consideration. The entries are plain and straight forward. Revenue cannot state ambiguity by placing some interpretation to the plain words of notification for denying the benefit of exemption available to the appellant by referring to this decision.

4.13 We do not find any merits in the impugned order upholding the denial of benefit of this exemption to the appellant. As we set aside the demand of duty, demand of interest and penalty is also set aside.

5.1 Appeal is allowed.

(Order pronounced in open court on- 31 January, 2025)

(P.K. CHOUDHARY)
MEMBER (JUDICIAL)

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

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