CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

ALLAHABAD BENCH – COURT NO. I

EXCISE APPEAL NO.70808 OF 2018

[E-HEARING]

(Arising out of Order-in-Original No. 05/NOIDA-1/2016-17 dated 27.03.2017 passed by the Joint Commissioner of Central Excise, Noida-I)

M/s R.G.I. Meditech Private Limited **....Appellant**
J-31, Sector-63, Noida,
Uttar Pradesh

VERSUS

Commissioner, Central Tax, Noida **....Respondent**
C-56/42, Sector- 62, Noida, Uttar Pradesh

APPEARANCE:

Shri B.L. Narasimhan and Shri Atul Gupta, advocates for the Appellant
Ms. Chitra Srivastava, authorized representative for the department

CORAM: **HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT**
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

DATE OF HEARING/ DECISION: 17.02.2026

FINAL ORDER NO.70043/2026

JUSTICE DILIP GUPTA:

M/s R.G.I. Meditech Private Limited[1] has filed this appeal to assail the order dated 28.03.2018 passed by the Commissioner (Appeals) by which the appeal filed by the appellant to assail the order dated 27.03.2017 passed by the Joint Commissioner has been dismissed.

2. The issue that arises for consideration in this appeal is whether Entry No. 55 of Notification No. 49/2008 dated 24.12.2008[2] as amended, would cover the product 'underpads' and accordingly

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1. **the appellant**
2. **the Notification**

assessable to duty on the basis of Maximum Retail Price[3] in terms of section 4A of the Central Excise Act, 1944[4].

3. To appreciate the issue involved, it would be pertinent to reproduce the relevant portion of the said Notification which is as follows:

"**MRP BASED ASSESSMENT- PERCENTAGE OF ABATEMENT**

Assessment of goods on the basis of retail sale price (MRP)- percentage abatement.- In exercise of the powers conferred by sub-sections (1) and (2) of section 4A of the Central Excise Act, 1944 (1 of 1944) the Central Government, in supersession of the notification of the Government of India in the Ministry of finance (Department of Revenue) No. 14/2008- Central Excise (N.T.), dated the 1st March, 2008, published in the Gazette of India Extraordinary, vide number G.S.R. 147(E) of the same date, except as respects things done or omitted to be done before such suppression, hereby specifies the goods mentioned in Column (3) of the Table below and falling under Chapter or heading or sub-heading or tariff item of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) mentioned in the corresponding entry in column (2) of the said Table, as the goods to which the provisions of sub-section (2) of said section 4A shall apply, and allows as abatement the percentage of retail sale price mentioned in the corresponding entry in column (4) of the said Table.

Table

S.No.	**Chapter, heading, sub-heading or tariff item**	**Description of goods**	**Abatement as a percentage of retail sale price**
(1)	(2)	(3)	(4)
****	****	****	****
55	4818	Cleansing or facial tissues, handkerchiefs and towels, of paper pulp, paper, cellulose wadding or webs of cellulose fibers other than goods falling under 4818 50 00	35
****	****	****	****

3. MRP
4. the Central Excise Act

4. The Commissioner (Appeals) has held that the ‘underpads’ manufactured by the appellant fall within the ambit of the description ‘other than goods falling under Tariff Item 4818 50 00’ mention in column 3 against serial number 55 of the Notification and, therefore, would be notified goods under section 4A of the Central Excise Act.

5. Shri B.L. Narasimhan, learned counsel for the appellant assisted by Shri Atul Gupta has submitted that the finding recorded by the Commissioner (Appeals) is clearly in the teeth of the description contained in column number 3 of serial no. 55 of the Notification. Learned counsel pointed out that the description does not state “all goods other than goods falling under 4818 50 00” and to support this connection, learned counsel has placed other entries of the said Notification which either state “all goods” or “all goods except certain products”.

6. Ms. Chitra Srivastava, learned authorized representative appearing for the department has, however, supported the impugned order and submitted that it does not call for any interference in this appeal.

7. The submissions advanced by the learned counsel for the appellant and the learned authorized representative appearing for the department have been considered.

8. A perusal of the description of goods at column no. 3 against serial number 55 of the Notification shows that it refers to ‘cleansing or facial tissues, handkerchiefs and towels, of paper pulp, paper, cellulose wadding or webs of cellulose fibers, other than goods falling under 4818 50 00’. It cannot be urged that all goods other than goods falling under Central Excise Tariff Item 48 18 50 00 will be covered under the description. If this interpretation has to be accepted, then the mention

of the products in the earlier part of the column would become redundant. The finding recorded by the Commissioner (Appeals) is clearly against the description of goods mentioned in column number 3 of serial number 55.

9. The Commissioner (Appeals) clearly committed an error in holding that all goods other than goods falling under ETI 4818 50 00 would be covered under column number 3 of the table.

10. It is, therefore, not possible to sustain the impugned order. It is, accordingly, set aside and the appeal is allowed.

(Order dictated in the open court)

(JUSTICE DILIP GUPTA)
PRESIDENT

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)

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