

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
1st Floor, WTC Building, FKCCI Complex, K. G. Road,
BANGLORE-560009

COURT-2

Customs Appeal No. 3156 of 2011

*[Arising out of the Order-in-Appeal No.173/2011 to
177/2011 dated 30.10.2011 passed by the Commissioner of
Customs (Appeals), Cochin.]*

M/s. Glass House
T.K. Road, Pullad, P.O
Pathanamthitta – 689 548.

....Appellant

Vs.

The Commissioner of Customs (Appeals) **....Respondent**
Custom House, Willingdon Island,
Cochin – 682 009.

Appearance:

Mr. M. Balagopal, Advocate

....For Appellant

Mr. K. A. Jathin, Dy. Com. (AR)

... For espondent

CORAM:

HON'BLE MR. P. A. AUGUSTIAN, MEMBER (JUDICIAL)
HON'BLE MRS R. BHAGYA DEVI, MEMBER (TECHNICAL)

Date of Hearing: 27.07.2023

Date of Decision: 20.11.2023

FINAL ORDER No. 21259 of 2023

Per R. BHAGYA DEVI:

The appellant M/s. Glass House filed a Bill of Entry No. 238994 dated 12.01.2009 for the clearance of "Dark Green Reflective Float Glass" which was imported from China. On examination, the officers found that as per the Notification No.4/2009 Cus. dated 06.01.2009, the imported goods were liable

for anti-dumping duty, however since the appellant disputed leviability, the goods were cleared with a provisional bond. On finalisation of provisional duty, the original authority confirmed the duty amount of Rs. 1,50,649/- along with interest under Section 18(3) of the Customs Act 1962, in view of the Notification No.4/2009 Cus. dated 6.01.2009.

2. The Commissioner (Appeals) also confirmed the anti-dumping duty on the ground that there was a specific exclusion for Reflective Glass from the purview of the anti-dumping duty under Notification No. 165/2003-Cus. dated 12.11.2003, but Notification No.4/2009 dated 06.01.2009 there was no such exclusion for Reflective Glass. Aggrieved by this order, the appellant is before us only on the limited ground that they are not liable to pay anti-dumping duty in as much as prior and after to the Notification No.4/2009 dated 06.01.2009 as there was admittedly no anti-dumping duty and therefore, for the relevant period there appears to be an omission in the Notification in not excluding the Reflective Glass from the anti-dumping duty.

3. The learned counsel on behalf of the appellant submitted that the facts are not in dispute. The Reflective Glass imported by the appellant was in fact excluded in the Notification No. 165/2003 dated 12.11.2003 and Notification No. 51/2009-Cus. dated 22.05.2009 but by omission the Reflective Glass did not find place in Notification No.4/2009 dated 06.01.2009. According to the appellant, the authority for imposing anti-dumping duty on a

product is the Director-General of Anti-dumping and in the final findings of the DGAD referred to subject goods falling under Heading 7005 and the subject goods included the items imported by them. Therefore, the Customs Authorities cannot exclude the item in their Notification in as much as it has not been approved by the DGAD. It is also submitted that as per the sunset final Notification findings issued by DGAD, the product under consideration remains the same as the subject goods and therefore, imposing anti-dumping duty on the items imported by them was illegal and hence, the appeal.

4. On behalf of the Revenue, the Authorised Representative for the Revenue submitted that Notification No. 165/2003-Cus. dated 12.11.2003 excluded Reflective Glass from its scope, however, there is no such exclusion for Reflective Glass in the Notification No.4/2009 dated 06.01.2009. The exemption Notification No. 51/2009 dated 22.05.2009 once again provided exemption to Reflective Glass and therefore, since the relevant Notification during the time of import did not provide any exemption from anti-dumping duty to the appellant. It is also submitted that the Hon'ble High Court of Kerala while deciding Writ Petition (C) No.7563 of 2009 (M) in the case of **K. Kochumon vs. Union of India** as reported at **2011 (273) ELT 187 (Ker.)** wherein it was held that:

“6. Therefore, *prima facie*, I am not satisfied that the reflective glass are excluded from the description of Float Glass in respect of which anti-dumping duty has been levied. In view of this, I am not persuaded to accept the contention of the learned counsel for the petitioner that the levy of anti-dumping duty is without jurisdiction.

7. True, the learned counsel for the petitioner made reference to Exts. P11 & P12. According to him these documents would show that reflective glass, were allowed to be imported in certain other ports in the country without levying anti-dumping duty. This Court can be guided only by the description of the commodity as available in the notification and even if there has been any omission on the part of the Department in levying duty at any place that will not justify interference levy of duty, if it is otherwise legal. Therefore, this court will not be justified in granting any relief in the writ petition and it is accordingly dismissed. However, it is clarified that the findings in the judgment will not stand in the way of the petitioner agitating his liability before the appellate Forum that is available under the statute, which, shall decide the matter untrammelled by any of the observations made above.”

In view of the above, the Revenue prayed that the appeal should be dismissed.

5. Heard both sides. The limited issue to be decided is whether the importer is eligible for the benefit of exemption from anti-dumping duty during the relevant period i.e., from 06.01.2009 to 22.05.2009. To understand the issue let's examine the Notifications that are relevant to the issue. Notification No. 165/2003-Cus. dated 12.11.2003 reads as:

Anti-dumping duty on Float Glass of specified quality, originating in, or exported from, the People's Republic of China and Indonesia

WHEREAS, in the matter of import of Float Glass of thickness 2 mm to 12 mm (both thickness inclusive) of clear as well as tinted variety (other than green glass) but not including processed glass meant for decorative, industrial or automotive purposes (hereinafter referred to as the subject goods), falling under heading 7005 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), originating in, or exported from, the Peoples' Republic of China and Indonesia (hereinafter referred to as the subject countries), and imported into India, the designated authority *vide* its preliminary findings, No. 14/19/2002-DGAD, dated the 20th November, 2002, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 20th November, 2002, had come to the conclusion that -

- (a) the subject goods, had been exported to India from the subject countries below the normal value;
- (b) the domestic industry had suffered material injury;
- (c) the material injury had been caused by the dumped imports from the subject countries;

and the designated authority had recommended imposition of provisional anti-dumping duty, pending final determination, on all imports of the subject goods, originating in, or exported from, the subject countries;

AND WHEREAS, on the basis of the aforesaid findings of the designated authority, the Central Government had imposed an anti-dumping duty *vide* notification of the Government of India in the erstwhile Ministry of Finance and Company Affairs (Department of Revenue), No. 7/2003-Customs, dated the 7th January, 2003, published in Part II,

Section 3, Sub-section (i) of the Gazette of India, Extraordinary, dated the 7th January, 2003 [G.S.R. 14(E), dated the 7th January, 2003];

AND WHEREAS, the designated authority, *vide* its final findings No. 14/19/2002-DGAD, dated the 22nd August, 2003, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 22nd August, 2003, has come to the conclusion that -

- (a) **Float Glass of thickness 2 mm to 12 mm (both thickness inclusive) of clear as well as tinted variety (other than green glass) but not including reflective glass, processed glass meant for decorative, industrial or automotive purposes have been exported to India from the subject countries below their normal value;**
- (b) the domestic industry has suffered material injury;
- (c) the material injury has been caused by the dumped imports of the subject goods from the subject countries,

and the designated authority has considered it necessary to impose final anti-dumping duty on all imports of Float Glass of thickness 2 mm to 12 mm (both thickness inclusive) of clear as well as tinted variety (other than green glass) but not including reflective glass, processed glass meant for decorative, industrial or automotive purposes, originating in, or exported from the subject countries so as to remove the injury to the domestic industry;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of section 9A of the said Customs Tariff Act, read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, on the basis of the aforesaid findings of the designated authority, hereby imposes on the goods, the description of which is specified in column (3) of the Table below, falling under tariff item of the First Schedule to the said Customs Tariff Act as specified in the corresponding entry in column (2), the specification of which is specified in column (4) of the said Table, originating in the countries as specified in the corresponding entry in column (5), and exported from the countries as specified in the corresponding entry in column (6) and produced by the producers as specified in the corresponding entry in column (7) and exported by the exporters as specified in the corresponding entry in column (8), and imported into India, an anti-dumping duty at a rate which is equal to the amount as specified in the corresponding entry in column (9), in the currency as specified in the corresponding entry in column (11) and per unit of measurement as specified in the corresponding entry in column (10), of the said Table.

TABLE

S. No.	Sub-heading	Description of goods	Specification	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1.	70 05	Float Glass	Float Glass of thickness 2 mm to 12 mm (both thickness inclusive) of clear as well as tinted variety (other than green glass) but not including reflective glass, processed glass meant for decorative, industrial or automotive purposes	Any country other than China	Indonesia	Any producer	PT Mulia Glass	71.16	Metric tonne	US\$
2.	70 05	Float Glass	Float Glass of thickness 2 mm to 12 mm (both thickness inclusive) of clear as well	Any country other than China	Indonesia	Any producer	PT Tensindo	77.76	Metric tonne	US\$

			as tinted variety (other than green glass) but not including reflective glass, processed glass meant for decorative, industrial or automotive purposes							
3.	70 05	Float Glass	Float Glass of thickness 2 mm to 12 mm (both thickness inclusive) of clear as well as tinted variety (other than green glass) but not including reflective glass, processed glass meant for decorative, industrial or automotive purposes	Any country other than China	Indonesia	Any producer	PT Abdi Rakyat	81.21	Metric tonne	US\$
4.	70 05	Float Glass	Float Glass of thickness 2 mm to 12 mm (both thickness inclusive) of clear as well as tinted variety (other than green glass) but not including reflective glass, processed glass meant for decorative, industrial or automotive purposes	Any country other than China	Indonesia	Any producer	All exporters except PT Mulia, PT Tensindo and PT Abdi Rakyat	81.21	Metric tonne	US\$
5.	70 05	Float Glass	Float Glass of thickness 2 mm to 12 mm (both thickness inclusive) of clear as well as tinted variety (other than green glass) but not including reflective glass, processed glass meant	China	Indonesia	Any producer	Any exporter	81.21	Metric tonne	US\$

			for decorative, industrial or automotive purposes							
6.	70 05	Float Glass	Float Glass of thickness 2 mm to 12 mm (both thickness inclusive) of clear as well as tinted variety (other than green glass) but not including reflective glass, processed glass meant for decorative, industrial or automotive purposes	Any country	China	Any producer	Any exporter	72.27	Metric tonne	US\$

2. The anti-dumping duty imposed under this notification shall be levied with effect from the date of imposition of the provisional anti-dumping duty, i.e. the 7th January 2003, and shall be paid in Indian currency.

Explanation. - For the purpose of this notification, rate of exchange applicable for the purposes of calculation of the anti-dumping duty under this notification shall be the exchange rate specified in the notification of the Government of India in the Ministry of Finance (Department of Revenue) issued from time to time, in exercise of powers conferred under sub-clause (i) of clause (a) of sub-section (3) of section 14 of the Customs Act, 1962 (52 of 1962) and the relevant date for determination of the rate of exchange shall be the date of presentation of the “bill of entry” under section 46 of the said Customs Act.

[Notification No. 165/2003-Cus., dated 12-11-2003]

Anti-dumping duty on Float glass of specified quality, originating in, or exported from, China and Indonesia

Whereas, the Designated Authority, vide its Notification No. 15/1/2007- DGAD, dated the 13th December, 2007, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 13th December, 2007 had initiated a sunset review in the matter of **continuation of anti-dumping on imports of Float Glass of thickness 2 mm to 12 mm (both inclusive) of clear as well as tinted variety (other than green glass) but not including processed glass meant for decorative, industrial or automotive purposes (hereinafter referred to as the subject goods), falling under heading 7005 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)**, originating in, or exported from, the Peoples’ Republic of China (in short ‘China PR’) and Indonesia (hereinafter referred to as the subject countries), and imported into India, imposed *vide* notification of the Government of India, Ministry of Finance (Department of Revenue), No. 165/2003-Customs, dated the 12th November, 2003 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* G.S.R. No. 887(E) of the same date;

And whereas, the Central Government has extended the anti-dumping duty on the subject goods, originating in, or exported from, the subject countries *vide* notification of the Government of India, Ministry of Finance (Department of Revenue), No. 4/2008-Customs, dated the 4th January, 2008, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* G.S.R. No. 12(E) of the same date, up to and inclusive of the 6th January, 2009;

And whereas, in the matter of sunset review of anti-dumping on import of the subject goods, originating in, or exported from the subject countries, the Designated Authority *vide* its final findings No. 15/1/2007-DGAD, dated the 2nd December, 2008, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 2nd December, 2008 has come to the conclusion that -

- (i) The subject goods are entering the Indian market at dumped prices and dumping margins of the subject goods imported from China PR are substantial and above *de minimis*;
- (ii) The subject goods are likely to enter the Indian market at dumped prices and the likely dumping margins in respect of imports from China PR and Indonesia is substantial and above *de minimis*;
- (iii) The subject goods are likely to enter Indian market at dumped prices, should the present measures be withdrawn;

- (iv) Even though the domestic industry has improved its performance during the POI, the withdrawal of the existing anti-dumping measure on subject goods from subject countries is going to cause a substantial injury to the domestic industry. Further, should the present anti-dumping duties be revoked, injury to the domestic industry is likely to intensify;

and has recommended continued imposition of the anti-dumping duty on the subject goods originating in, or exported from, the subject countries in order to remove injury to the domestic industry;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act, 1975 (51 of 1975) read with rules 18 and 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 165/2003-Customs, dated the 12th November, 2003, except as respects things done or omitted to be done before such supersession, the Central Government, after considering the aforesaid findings of the Designated Authority, hereby imposes an anti-dumping duty on the imports into India of subject goods falling under Heading 7005 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) at an amount, which is equal to, -

- (a) US \$ 133 per metric tonne in case of imports of subject goods originating in, or exported from, China PR; and
- (b) US \$ 81.21 per metric tonne in case of imports of subject goods from Indonesia, except that in respect of imports from PT Mulia Glass, Indonesia (exporter), the anti-dumping duty shall be levied at an amount which is equal to US \$ 71.16 per metric tonne.

2. The anti-dumping duty imposed under this notification shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette and shall be paid in Indian currency.

Explanation. - For the purpose of this notification, rate of exchange applicable for the purposes of calculation of the anti-dumping duty under this notification shall be the exchange rate specified in the notification of the Government of India in the Ministry of Finance (Department of Revenue) issued from time to time, in exercise of powers conferred under sub-clause (i) of clause (a) of Explanation to section 14 of the Customs Act, 1962 (52 of 1962) and the relevant date for determination of the rate of exchange shall be the date of presentation of the "bill of entry" under section 46 of the said Customs Act.

[Notification No. 4/2009-Cus., dated 6-1-2009]

Anti-dumping duty on Float glass, originating in, or exported from China and Indonesia — Reflective glass excluded — Amendment to Notification No. 4/2009-Cus.

Whereas, in the matter of import of Float Glass of thickness 2 mm to 12 mm (both thickness inclusive) of clear as well as tinted variety (other than green glass) but not including processed glass meant for decorative, industrial or automotive purposes, falling under heading 7005 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), originating in or exported from the Peoples' Republic of China and Indonesia (hereinafter referred to as the subject countries), and imported into India, the designated authority *vide* its final findings No. 14/19/2002-DGAD, dated the 22nd August, 2003, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 22nd August, 2003, **had recommended to impose final anti-dumping duty on all imports of Float Glass of thickness 2 mm to 12 mm (both thickness inclusive) of clear as well as tinted variety (other than green glass) but not including reflective glass, processed glass meant for decorative, industrial or automotive purposes (hereinafter referred to as the subject goods) originating in or exported from the subject countries so as to remove the injury to the domestic industry;**

And whereas, on the basis of the aforesaid findings of the designated authority, the Central Government, in exercise of the powers conferred by sub-section (1) of section 9A of the said Customs Tariff Act read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, imposed an anti-dumping duty on the subject goods *vide* notification of the Government of India, Ministry of Finance (Department of Revenue), No. 165/2003-Customs, dated the 12th November, 2003, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* G.S.R. No. 887(E), dated 12th November, 2003;

And whereas, the designated authority, *vide* its Notification No. 15/1/2007-DGAD, dated the 13th December, 2007, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 13th December, 2007 had initiated a sunset review in the matter of continuation of anti-dumping on imports of Float Glass of thickness 2 mm to 12 mm (both inclusive) of clear as well as tinted variety (other than green glass) but not including processed glass meant for decorative, industrial or automotive purposes, falling under heading 7005 of the First Schedule to the said Customs Tariff Act, originating in or exported from the subject countries and imported into India;

And whereas, the designated authority *vide* its final findings No. 15/1/2007-DGAD, dated the 2nd December, 2008, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 2nd December, 2008 had recommended continued imposition of the anti-dumping duty;

And whereas, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of said Customs Tariff Act read with rules 18 and 23 of the said Customs Tariff Rules, and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 165/2003-Customs, dated the 12th November, 2003, except as respects things done or

omitted to be done before such supersession, the Central Government, after considering the aforesaid findings of the designated authority, has imposed an anti-dumping duty on the imports into India of Float Glass of thickness 2 mm to 12 mm (both inclusive) of clear as well as tinted variety (other than green glass) but not including processed glass meant for decorative, industrial or automotive purposes, falling under Heading 7005 of the First Schedule to the said Customs Tariff Act, vide notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 4/2009-Customs, dated the 6th January, 2009, which was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* G.S.R. No. 14(E) of the same date;

And whereas, in terms of rule 4 read with rule 23 of said Customs Tariff Rules, the designated authority is required to investigate as to the existence, degree and effect of any alleged dumping in relation to import of any article, to identify the article liable for anti-dumping duty, to recommend the amount of anti-dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry and to review the need for continuance of anti-dumping duty on such article;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of said Customs Tariff Act read with rules 4, 18 and 23 of the said Customs Tariff Rules, the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 4/2009-Customs, dated the 6th January, 2009, namely :-

In the said notification, in the opening paragraph, after the words, "as well as tinted variety (other than green glass) but not including", the words "reflective glass," shall be inserted.

[Notification No. 51/2009-Cus., dated 22-5-2009]

6. As can be seen from the above Notification No.165/2003-Cus. dated 12.11.2003 read that the *"Float Glass of thickness 2 mm to 12 mm (both thickness inclusive) of clear as well as tinted variety (other than green glass) **but not including reflective glass**, processed glass meant for decorative, industrial or automotive purposes have been exported to India from the subject countries below their normal value"*. Whereas, the Designated Authority, vide its Notification No. 15/1/2007-DGAD, dated the 13th December, 2007, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 13th December, 2007 had initiated a sunset review in the matter of continuation of anti-dumping on imports of Float Glass of thickness 2mm to 12mm (both inclusive) of clear as well as tinted variety (other than green glass) but not including processed glass meant for decorative, industrial or automotive purposes (hereinafter referred to as the subject goods), falling under heading 7005 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)."

7. As can be seen from the above Notifications, it is seen that though the Notification No.165/2003-cus. dated 12.11.2003 and Notification No.51/2009-Cus. dated 22.5.2009 excluded reflective glass from the levy of anti-dumping duty whereas the Notification No.4/2009-Cus. dated 06.01.2009 did not exclude Reflective Glass. As claimed by the appellant, there could be an omission but that omission cannot be set right by the Customs authorities in as much as the Customs Notifications are issued only on the basis of the findings of the DGAD and their notifications.

8. In the case of **Dilip Kumar**, the Supreme Court held that:

“**43.** There is abundant jurisprudential justification for this. In the Governance of rule of law by a written Constitution, there is no implied power of taxation. The tax power must be specifically conferred and it should be strictly in accordance with the power so endowed by the Constitution itself. It is for this reason that the Courts insist upon strict compliance before a State demands and extracts money from its citizens towards various taxes. Any ambiguity in a taxation provision, therefore, is interpreted in favour of the subject/assessee. The statement of law that ambiguity in a taxation statute should be interpreted strictly and in the event of ambiguity the benefit should go to the subject/assessee may warrant visualizing different situations. For instance, if there is ambiguity in the subject of tax, that is to say, who are the persons or things liable to pay tax, and whether the revenue has established conditions before raising and justifying a demand. Similar is the case in roping all persons within the tax net, in which event the State is to prove the liability of the persons, as may arise within the strict language of the law. There cannot be any implied concept either in identifying the subject of the tax or person liable to pay tax. That is why it is often said that subject is not to be taxed, unless the words of the statute unambiguously impose a tax on him, that one has to look merely at the words clearly stated and that there is no room for any intendment nor presumption as to tax. It is only the letter of the law and not the spirit of the law to guide the interpreter to decide the liability to tax ignoring any amount of hardship and eschewing equity in taxation. Thus, we may emphatically reiterate that if in the event of ambiguity in a taxation liability statute, the benefit should go to the subject/assessee. But, in a situation where the tax exemption has to be interpreted, the benefit of doubt should go in favour of the revenue, the aforesaid conclusions are expounded only as a prelude to better understand jurisprudential basis for our conclusion”.

Finally, the conclusion arrived at by the Apex court was as follows:

- (1) *Exemption notification should be interpreted strictly; 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.*
- (2) *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.*

9. The Supreme Court of India in the case of **State of Gujarat Versus Arcelor Mittal Nippon Steel India Ltd. 2022 (379)**

E.L.T. 418 (S.C.) held that:

“20.3 In taxing matters, the doctrine of promissory estoppel as such is not applicable and the Revenue can take a position different from its earlier stand in a case with established distinguishing features. [See *Commissioner of Central Excise, Bangalore-1 v. Bal Pharma Limited, Bangalore and Ors.*, (2011) 2 SSC 620 = 2010 (259) E.L.T. 10 (S.C.)].

20.4 The rules of promissory estoppel and estoppel by conduct may not be applied to alter or amend the specific terms and against statutory provisions. All the terms and conditions contained in the exemption notification shall prevail and the person claiming the exemption has to fulfil and satisfy all the eligibility criteria/conditions mentioned in the exemption notification.

21. Now, so far as the submission on behalf of the respondent that prior to 14-11-2000, there was no demand of the purchase tax and/or the exemption from payment of purchase tax was made available in the earlier assessment years and, therefore, in the subsequent assessment years also, the respondent-assessee shall be entitled to the exemption is concerned, the aforesaid has no substance. In the taxation matters, every assessment year/period is a different year/period”.

10. In view of above observations of the Supreme Court, the question of interpreting the exemption Notification has to be done in the manner specified in the Notification. In the present case, since Reflective Glass is not found in the Notification No.4/2009-Cus. dated 06.01.2009 for exempting them from anti-dumping duty, question of extending the benefit does not arise. The Commissioner (Appeals) has rightly held that no attempt can be made to infer the motive or meaning of the Notification other than what is emanating from the plain language of the Notification.

Therefore, we uphold the order of the Commissioner (Appeals) and dismiss the Appeal.

11. The Appeal is dismissed.

*(Order pronounced in open court **20/11/2023.**)*

(P. A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

RV