

**CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE**

Regional Bench COURT-2

Customs Appeal No. 21467 of 2017

[Arising out of the Order-in-Appeal Nos.171 to 194/2017 dated
30.06.2017 passed by the Commissioner of Customs (Appeals),
Bengaluru.]

M/s. Velankani Electronics Pvt. Ltd.,
No.43, Electronic City, Hosur Road,
Bangalore -560100.

.....Appellant

VERSUS

Commissioner Of Customs,
Bangalore Air Customs,
Bangalore -560 300.

.....Respondent

AND

Customs Appeal No. 21507 of 2017

[Arising out of the Order-in-Appeal Nos. 196-198/2017 dated 07.07.2017
passed by the Commissioner of Customs (Appeals), Bengaluru.]

M/s. Velankani Electronics Pvt. Ltd.,
No.43, Electronic City, Hosur Road,
Bangalore -560 100.

.....Appellant

VERSUS

Commissioner of Customs,
Bangalore Air Customs,
Kempe Gowda International Airport,
Bangalore -560 300.

.....Respondent

Appearance:

Mr. M.S. Nagaraja, Advocate for Appellant

Mr. K.A. Jathin, Authorized Representative (AR)for Respondent

Coram:

Hon'ble Dr. D. M Misra, Member (Judicial)

Hon'ble Mr. Pullela Nageswara Rao, Member (Technical)

FINAL ORDER Nos. 21468 - 21469 of 2025

Date of Hearing: 20.03.2025

Date of Decision:19.09.2025

Per: Pullela Nageswara Rao

These Appeal Nos. 21467/2017 and 21507/2017 were filed against the respective Orders-in-Appeal No. 171 to 194/2017 dated 30.06.2017 and the Orders-in-Appeal No. 196 to 198/2017 dated 07.07.2017 issued by Commissioner of Customs (Appeals), Bangalore.

2. The brief facts are the appellant is engaged in manufacture of Set Top Boxes (STBs), imported various machines and machine parts to be used in the Printed Circuit Board (PCB) assembly which in turn will be used in the manufacture of set top boxes and AC Power adapters. The details of the 2(two) appeals are as follows;

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3. The appellant filed 24(twenty four) bills of entry, during the period 11.08.2015 to 28.03.2016, self-assessed the bills of entry and cleared the goods inter alia on payment of Basic Customs Duty [BCD]. As per Notification No. 25/2002-Cus dated 01.03.2002 as amended vide Notification No. 08/2004-Cus dated 08.06.2004 parts, components and accessories of Set Top Boxes for Television (TV) are exempted from Basic custom Duty [BCD], however Appellant self-assessed the bills of entry and did not claim the exemption Notification at the time of imports. Thereafter appellant realizing their inadvertence submitted refund claim on 27.06.2016, claiming refund of Rs. 1,72,93,826/- being the excess duty paid. The adjudicating Authority vide Order-in-Original No. 933/2016 BACC Refunds dated 15.09.2016 rejected the refund claim filed by the appellant. The adjudicating Authority has rejected the refund claim on the grounds that; the assessing group has accepted self-assessment without examining the conditions of Exemption Notification as no exemption was claimed; the claimant has not furnished any re-assessment order; there is no speaking order of

assessment as required in terms of CCE, Kanpur Vs. Flock India Ltd 2000-120-ELT-285 (SC), and Priya Blue Industries Ltd Vs. CC, Ahmedabad - 2002-148-ELT 809 (Tri); the decisions in the case of Aman Medical Products and others was not applicable; Chartered Accountant certificate of not availing Cenvat Credit is not sufficient and that further evidence that depreciation is not claimed on the imported machinery is required to be placed on record. The Appellant challenged the above order by filing Appeal before the Commissioner of Customs (Appeals), Bangalore. Commissioner (Appeals) vide Order-in-Appeal No 171-194/2017 dated 30.06.2017 has rejected the Appeal and upheld the grounds made out in Order-in-Original No. 933/2016 dated 15.09.2016. Aggrieved by said order this appeal was filed before the Tribunal. Further, notwithstanding the above the Appellants have submitted a letter dated 02.05.2022, with copies of Bills of Entry and connected documents, to the assessing authority for amendment of the Bills of Entry in terms of Section 149 of the Customs Act, 1962 and to re-assess the Bills of Entry.

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4. Further, the appellant filed 3(three) bills of entry, during the period 02.03.2016 to 22.03.2016, self-assessed the bills of entry and cleared the goods on payment of Basic Customs Duty [BCD], Additional Customs Duty [CVD] and Special Additional Duty [SAD]. However, parts, components and accessories for use in manufacture of reception apparatus for television but not designed to incorporate a video display falling under tariff item 85287100 of CETA, 1985 are exempt from Basic customs duty (BCD) vide Notification No 12/2012-Cus dated 17.03.2012 (Sl. No 431-I), exempt from Additional duty of customs (CVD) vide Notification No 12-2012-CE dated 17.03.2012 (Sl. No 263 - U) and SAD vide Notification No 21/2012-Cus dated 17.03.2012 (Sl. No-1). Thereafter appellant realizing their inadvertence submitted refund claim on 07.04.2016, claiming refund of

Rs. 47,82,634/- being the excess duty paid. The adjudicating Authority vide Order-in-Original No. 721/2016 dated 06.07.2016 rejected the refund claim filed by the appellant on the grounds that; the appellant has neither sought re-assessment under Section 17 (4) of the Customs Act, 1962 before the assessment authority nor have preferred an appeal under Section 128 of the Customs Act, 1962; the refund claim has been filed prematurely in the absence of any re-assessment order having been passed; appellant has neither furnished the re-assessment order nor sought any extension in filing the same; there is no ground made out for denial of exemption and refund of the customs duties paid on merit rate. Aggrieved by the above order, an appeal was filed before Commissioner (Appeals) who has passed the impugned order dated 07.7.2017 rejecting the Appeal filed by the Appellant. Commissioner of Customs (Appeals) has held that; the Bills of entry were self-assessed by the Appellant and the availment of any exemption benefit is always optional to the appellant; it is settled now that after 08.04.2011, when the self-assessment was introduced, the self-assessed bill of entry is not an appealable order and any person can take recourse to an amendment of bill of entry (Section 149 of the Customs Act, 1962) or removal of defects in bill of entry (under Section 154 of the Customs Act, 1962) or file refund under Section 27 of the Customs Act, 1962, in the event any infirmity is noticed subsequent to clearance of goods; Commissioner (Appeals) has held that the decisions in the case of M/s Flock India and M/s Priya Blue relied upon by the original adjudicating authority are not applicable to the Appellant's case. Commissioner (Appeals) vide Orders-in-Appeal No. 196-198/ 2017 dated 07.07.2017 rejected the Appeal and upheld the grounds made out in Order-in-Original No. 721/2016 dated 06.07.2016. Aggrieved by said order this is appeal filed before the Tribunal. Further, notwithstanding filling of the appeal, the Appellants have requested vide letter dated 02.5.2022, together with copies of

connected documents, addressed to the Deputy Commissioner of Customs, Airport & ACC, Bangalore for amendment of the subject 3(three) Bills of Entry under Section 149 of the Customs Act, 1962 and to re-assess the amended Bills of entry thereafter to facilitate processing of the refund claim.

5. Since the issue in both the appeals is common they are together taken up for hearing and disposal by this common order.

6. Learned counsel for the appellant during the hearing submits that in respect of 24(twenty four) bills of entry in Appeal No. 21467/2017, as per Notification No. 25/2002-Cus dated 01.03.2002 as amended vide Notification No. 08/2004-Cus dated 08.06.2004, appellant is exempted from payment of Basic Customs Duty since goods are used for manufacture of Printed Circuit Board (PCB) assemblies and which are further used in manufacture of Set Top Boxes hence they are eligible for the refund of the excess duty paid. Further in respect of 3(three) bills of entry in Appeal No. 21507/2017, the impugned goods are exempt from Basic Customs Duty vide Notification No 12/2012-Cus dated 17.03.2012 (Sl. No 431-I), exempt from Additional duty of customs (CVD) vide Notification No 12/2012-CE dated 17.03.2012 (Sl. No 263-U) and SAD vide Notification No 21/2012-Cus dated 17.03.2012 (Sl. No-1), hence they are eligible for the refund of the excess duty paid.

7. Learned counsel draws our attention to the judgment of the Hon'ble High Court of the Telangana in the matter of **Sony India Pvt. Ltd. Vs. Union of India-2022(379) E.L.T. 588 (Telangana)** wherein it is held that:-

"34. In the decision of the Supreme Court in ITC Ltd. (supra) while holding that the refund cannot be granted by way of a refund application under Section 27 of the Act until and unless an assessment order is modified and a fresh order of assessment is passed and duty re-determined, the

Supreme Court nowhere said that such amendment or modification of an assessment order can only be done in an appeal under Section 128. In para 47, the Court held categorically:

"47..... we are of the opinion that the claim for refund cannot be entertained unless the order of assessment or self-assessment is modified in accordance with law by taking recourse to the appropriate proceedings and it would not be within the ken of Section 27 to set aside the order of self-assessment and reassess the duty for making refund; and in case any person is aggrieved by any order which would include self-assessment, he has to get the order modified under Section 128 or under other relevant provisions of the Act.

35. Thus, even the Supreme Court clearly indicated that the modification of the assessment order can be either under Section 128 or under other relevant provisions of the Act i.e. Section 149.

36. Therefore, the stand of the respondents in the counter affidavit that only reassessment under Section 128 is the remedy available to the petitioner, and Section 149 cannot be invoked, is not tenable. We also reject the plea of the 2nd respondent that there is no possibility of getting modified an order of assessment under any other relevant provision and that petitioner is trying to overcome limitations stipulated in Section 128.

37. The only condition required to be fulfilled for seeking amendment of documents such as a BoE under Section 149 is that such amendment should be sought on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be."

8. Further, The Hon Supreme Court in the case of UOI Vs Sony India Pvt Ltd 2023 (385) ELT 93 (SC) has affirmed the above judgment of the Hon'ble High Court.

9. Learned counsel further relied on the judgment of **Dimension Data India Pvt. Ltd. Vs. CC (2021(371) E.L.T. 192 (Bom.)** wherein it is held that:-

"17.1 For ready reference, Section 149 is extracted hereunder:

149. Save as otherwise provided in sections 30 and 41, the proper officer may, in his discretion, authorise any document, after it has been presented in the customs house to such restrictions and conditions, as may be prescribed to be amended in such form and manner, within such time, subject to such restrictions and conditions, as may be prescribed:

Provided that no amendment of a bill of entry or a shipping bill or bill of export shall be so authorised to be amended after the imported goods have been cleared for home consumption or deposited in a warehouse, or the export goods have been exported, except on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be.

18. From a careful analysis of Section 149, we find that under the said provision a discretion is vested on the proper officer to authorise amendment of any document after being presented in the customs house. However, as per the proviso, no such amendment shall be authorised after the imported goods have been cleared for home consumption or warehoused, etc. except on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, etc. Thus, amendment of the Bill of Entry is clearly permissible even

in a situation where the goods are cleared for home consumption. The only condition is that in such a case, the amendment shall be allowed only on the basis of the documentary evidence which was in existence at the time of clearance of the goods.

19. This brings us to Section 154 of the Customs Act which deals with correction, clerical errors, etc. It says that clerical or arithmetical mistakes in any decision or order passed by the Central Government, the Board or any officer of customs under the Customs Act or errors arising therein from any accidental slip or omission may, at any time, be corrected by the Central Government, the Board or such officer of customs or the successor in office of such officer, as the case may be.

19.1 Section 154 of the Customs Act reads as under :

"154. Clerical or arithmetical mistakes in any decision or order passed by the Central Government, the Board or any officer of customs under this Act, or errors arising therein from any accidental slip or omission may, at any time, be corrected by the Central Government, the Board or such officer of customs or the successor in office of such officer, as the case may be.

20. Thus, Section 154 permits correction of any clerical or arithmetical mistakes in any decision or order or of errors therein due to any accidental slip or omission. Such correction may be made at any time.

21. From a conjoint reading of the aforesaid provisions of the Customs Act, it is evident that customs authorities have the power and jurisdiction to make corrections of any clerical or arithmetical mistakes or errors arising in any decision or order due to any accidental slip or omission at any time which would include an order of self-assessment post out of charge."

The Hon Supreme Court has affirmed the said judgment as reported in Commissioner Vs. Dimension Data India Private Ltd. - 2022 (379) E.L.T. A39 (S.C.).

10. Learned counsel submits that the ratio of the above judgments is applicable to the facts of the case. The lower authorities are required to amend the subject Bills of Entry, reassess the imported goods by applying the exemption/concessional rate of duty claimed as applicable and process the refund claim.

11. Learned counsel submits that in the case of CC, Chennai Vs. MedreichSterilab Ltd.,- 2016 (337) ELT 280 (T-Che) it is held that Registration under Rule 3 and application under Rule 4 of the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 are merely procedural and the intent of these statute is to ensure that the use of the goods imported by the manufacturer are for the intended purpose as declared in the application.

12. Learned counsel also relied on the following judgments:

(i) Bharat Electronics Ltd Vs CC-2017 (352) ELT 245 (T-Bang)

(ii) Calison Fibres Pvt. Ltd Vs. Cc (Import), Nhava Sheva

-2019 (370) E.L.T. 1097 (Tri. - Mumbai)

(iii) Kirloskar Ferrous Industries Ltd Vs. Commr. of Cus, Mangalore - 2021 (377) E.L.T. 878 (Tri- Bang.)

13. Learned counsel submits that the ratio of the aforesaid judgments is applicable to the facts of the case. The subject Bills of Entry are required to be amended in terms of Section 149 and Section 154 of the Customs Act, 1962, reassessed and the refund claim processed thereafter.

14. Learned counsel also draws our attention to the decision of this Tribunal in the matter of **Bharat Electronics Ltd. Vs. CC Bangalore - 2017 (352) ELT 245(Tri.-Bang)**, wherein this Tribunal held that:-

"5. It is not in dispute that the assessee has imported components for manufacture of Personal Computers and cleared the same on payment of merit rate of customs duty in the absence of the applicable certificates as required under the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996. It is also not disputed that the assessee has obtained such certificates subsequent to the imports and have claimed refund of the customs duties paid by submitting these before the Customs authorities. However, they rejected the refund claims without considering the certificates and by observing that the bills of entry cannot be reassessed under Section 149 on the basis of the duty concession certificate since these are obtained subsequent to the clearance of the goods. We observe that such an objection was not raised in the show cause notices issued proposing to reject the refund claim.

5.1 Section 27 of the Customs Act covers grant of the refund of customs duties. From 8-4-2011, Section 27 has been amended to do away with the requirement of reassessment of bills of entry before any refund can be considered. On merits, we find that the importer is entitled to the substantive benefit of the Notification No. 24/2005-Cus., dated 1-3-2005 inasmuch as the components imported by them were meant for manufacture of tablet PCs. The said Customs notification extends the benefit subject to observance of Customs Rules. Admittedly, the procedure specified was not followed by the importer at the point of import and consequently, had to pay Customs duties at merit rates. Subsequently, the formalities stand complied with and necessary certificates have been obtained from the jurisdictional Central Excise authorities and submitted before the Customs for claiming the refund. However, they do not appear to have been considered. On

the other hand the customs authorities, have proceeded to reject the refunds under Section 149 by taking the view that reassessments are not permissible.

5.2 We are of the view that the substantial benefit cannot be denied to the assessee. Subsequent to the dates of import, all the procedural requirements have been satisfied. Since the requirement of re-assessment has been done away with by amending Section 27, and the imports have been made after this date, we are of the view that the assessee is entitled to the refunds on merits. However, before grant of such refunds, the other requirements of Section 27 needs to be looked into and subject to the satisfaction only the refunds can be paid.

5.3 We consider it appropriate to remand the case back to the original authorities with a direction to consider the duty concession certificates produced by the assessee without insisting on the requirement for re-assessment under Section 149. The assessee's claim for refund may be validated under Section 27 and paid to them.

6. In line with the above discussions, the appeal is allowed by way of remand.

15. Learned counsel further submits that the issue was considered by Tribunal in the matter of **Calison Fibres Pvt. Ltd. Vs. Commr. of Cus. (Import), Nhava Sheva-2019(370) E.L.T. 1097 (Tri.- Mumbai)** wherein it is held that:-

"4. We have no doubt that, in the regime of self-assessment, reassessment by an assessing officer requires issue of order of justification which may be challenged in appeal. However, duty paid in excess of that prescribed by law cannot be retained by the exchequer and eligibility to the benefit of Notification No. 21/2002-Cus., dated 1st March, 2002 is not in question here.

5. It would appear that the letter dated 9th September, 2011 sought for recall of the bills of entry to make the necessary amendments therein to restrict liability to duties as imposed by law. Though reassessment prescribed for in Section 17 of Customs Act, 1962 is not an option to be invoked by the importer, the erroneous deployment of that in the said letter does not preclude the application of any other relevant provision in the statute. We, therefore, direct that the request for re-assessment be treated as application under Section 149 of Customs Act, 1962 for amendment of the bills of entry. The proper officer may therefore consider this application and pass appropriate order in accordance with law and after granting opportunity to be heard to the appellant herein.

6. Appeal is accordingly disposed of."

16. Learned counsel also draws our attention to the decision of this Tribunal in the matter **Kirloskar Ferrous Industries Ltd. Vs. Commr. of Cus., Mangalore- 2021(377) ELT 878 (Tri-Bang)**, wherein this Tribunal held that :-

"6. After considering the submissions of both the parties and perusal of the material on record, I find that in the present case it is an admitted fact that the duty was paid under protest by the appellant and appellant has paid excess duty of Rs. 9.41,005/- and thereafter the appellant vide his letter dated 15-10-2018 requested the Deputy Commissioner of Customs to pass an appealable reassessment order but the same was not done and thereafter, the appellant filed the refund claim which was rejected by the Order-in-Original on the ground that the appellant has not challenged the assessment of Bill of Entry not got it reassessed before or after out of charge of goods. Further, I find though the refund has been rejected by the original authority but in para 2 of the findings, the original authority has observed that the importer had an

option to file an application for amendment of the Bill of Entry under Section 149 of the Customs Act, 1962 to rectify any mistake in the Bill of Entry based on the documents available at the time of importation but the Learned Commissioner while passing the impugned order in para 12 denied the right of the appellant to seek amendment of Bill of Entry as permissible under Section 149 of the Customs Act, 1962. Further, I find that the Revenue has not challenged the show-cause notice as well as the Order-in-Original allowing the option to the appellant to seek an amendment in the Bill of Entry as permissible under Section 149 of the Customs Act, 1962 but the same was suo motu set aside by the Learned Commissioner which is against law as held in various decisions relied upon by the appellant cited supra. Hence, the said finding of the Commissioner is not sustainable. Further, I find that the Hon'ble Bombay High Court in the case of Dimension Data India Pvt. Ltd. cited supra has distinguished the Hon'ble Apex Court's decision in the case of ITC Ltd. and has observed in paras 22.1 and 22.2 as under;

22.1 From the question itself, it is clear that the issue before the Supreme Court was not invocation of the power of re assessment under Section 17(4) or amendment of documents under Section 149 or correction of clerical mistakes or errors in the order of self-assessment made under Section 17(4) by exercising power under Section 154 vis-a-vis challenging an order of assessment in appeal. The issue considered by the Supreme Court was whether in the absence of any challenge to an order of assessment in appeal, any refund application against the assessed duty could be entertained in that context Supreme Court observed in Paragraph 43 as extracted above that

an order of self-assessment is nonetheless an assessment order which is appealable by "any person" aggrieved thereby. It was held that the expression "any person" is an expression of wider amplitude. Not only the revenue but also an assessee could prefer an appeal under Section 128. Having so held, Supreme Court opined in response to the question framed that the claim for refund cannot be entertained unless order of assessment or self-assessment is modified in accordance with law by taking recourse to appropriate proceedings. It was in that context that Supreme Court held that in case any person is aggrieved by any order which would include an order of self- assessment, he has to get the order modified under Section 128 or under other relevant provisions of the Customs Act.

22.2 Therefore, in the judgment itself Supreme Court has clarified that in case any person is aggrieved by an order which would include an order of self-assessment, he has to get the order modified under Section 128 or under other relevant provisions of the Customs Act before he makes a claim for refund. This is because as long as the order is not modified the order remains on record holding the field and on that basis no refund can be claimed but the moot point is Supreme Court has not confined modification of the order through the mechanism of Section 128 only. Supreme Court has clarified that such modification can be done under other relevant provisions of the Customs Act also which would include Section 149 and Section 154 of the Customs Act.

6.1 Further, I find that an identical issue has been considered by two Division Benches of this Tribunal in the case of Calisons Fibres Pvt. Ltd. cited supra and CC, Tuticorin v. Sakthi Sugars Ltd.-2020 (372) ELT 577 (Tri-

Chennai). In para 5 in the case of Calisons Fibres Pvt. Ltd., the Division Bench directed that the request for reassessment be treated as application under Section 149 of Customs Act, 1962 for amendment of Bill of Entry and accordingly, directed the proper officer to consider the said application and pass appropriate order in accordance with law after granting opportunity of hearing to the appellant. Since the issue is clearly covered by the Division Bench judgment of this Tribunal, hence, by following the ratio of the said decision I am of the considered view that the impugned order is not sustainable in law and is set aside by allowing the appeal of the appellant with the direction to the original authority that the request of the appellant for reassessment be treated as an application under Section 149 of the Customs Act, 1962 for amendment of Bill of Entry and appropriate order be passed in accordance with law after giving an opportunity of hearing to the appellant."

17. The learned Authorised Representative (AR) for the Revenue reiterated the findings in the impugned orders.

18. Heard both sides and perused the records.

19. We find that the appellant while clearing the consignments imported vide the above mentioned 24(twenty four) bills of entry in Appeal No. 21467/2017 had not claimed the benefit of exemption Notification No. 25/2002-Cus dated 01.03.2002 as amended vide Notification No. 08/2004-Cus dated 08.06.2004 and in 3(three) bills of entry in Appeal No. 21467/2017 had not claimed exemption from basic customs duty (BCD) vide Notification No 12/2012- Cus dated 17.03.2012 (Sl. No 431-I), from Additional duty of customs (CVD) vide Notification No 12-2012-CE dated 17.03.2012 (Sl. No 263 - U) and SAD vide Notification No 21/2012-Cus dated 17.03.2012 (Sl. No-1). Consequently the goods have been self-assessed without the benefit of exemptions and cleared under the RMS procedure. The

appellant realising that they are eligible for the benefit of above Notifications filed refund claims for refund of the excess duty paid. The refund claims were rejected on the grounds that refund cannot be granted on grounds *inter alia* without the challenge of the assessment orders. The appeals filed against the adjudication orders were rejected by Commissioner (Appeals) who upheld the orders of the adjudicating authority. The appellant aggrieved by the orders of Commissioner (Appeals) filed these appeals before the Tribunal. The appellant notwithstanding the appeals filed before this Tribunal had also filed applications before the adjudicating authority for amendment of the impugned Bills of entry under Section 149 of the Custom Act, 1962. We find that this issue of amendment under section 149 of the Custom Act, 1962 has been decided in catena of decisions, cited (supra) and the Hon'ble Supreme Court in the case of **M/s. ITC Vs. CCE, Kolkata-2019 (368) ELT 216(SC) and UOI Vs. Sony India Pvt. Ltd.-2023 (385) ELT 93 (SC.**

20. We find that in view of the above judgements/decisions rejection of refund claims was not proper and tenable. Hence, the impugned orders rejecting the refund claims are not sustainable and are liable to be set aside. As regards amendment to the bills of entries it was informed during the hearing that the applications submitted by the appellant to the respondent have not been considered till date. In the facts and circumstances of the case the matter has to be remitted back to Adjudicating authority to consider the applications filed by the appellant for amendment of bills of entry under Section 149 of the Customs Act, 1962 as per the conditions prescribed therein and to examine their eligibility to the exemption under Notification No. 25/2002-Cus dated 01.03.2002 as amended vide Notification No. 08/2004-Cus dated 08.06.2004 in respect of 24 (twenty four) bills of entries in Appeal No. C/21467/ 2017 and in 3(three) bills of entry in Appeal No. 21467/2017, the eligibility of

exemption from BCD vide Notification No 12/2012-Cus dated 17.03.2012 (Sl. No 431-I), from Additional duty of customs (CVD) vide Notification No 12-2012-CE dated 17.03.2012 (Sl. No 263-U) and SAD vide Notification No 21/2012-Cus dated 17.03.2012 (Sl. No-1), as claimed by the appellant, in the light of the decisions cited, *supra*. We find that the rejection of refund claims *inter alia* on the ground of not challenging the assessment needs to be re-considered after the decision on the amendment of the impugned bills of entry. Hence the impugned orders upholding the rejection of the refund claims in the facts and circumstances are liable to be set aside and have to be remitted to the adjudicating authority.

21. In view of the above discussion the impugned orders in Appeal No. 20507/2017 and Appeal No. 21467/2017 rejecting the refund claims filed by the appellant are set aside and are remitted to the adjudicating authority to consider the refund claims filed of the appellant after deciding the issue of amendment of impugned bills of entry under Section 149 of the Customs Act, 1962, considering the catena of decisions cited (*supra*) and the decision of the Hon'ble Apex Court in **M/s. ITC** and **M/s. Sony India Pvt. Ltd.** (*supra*).

22. Accordingly, the appeals are disposed by way of remand in the above terms.

(Order pronounced in Open Court on 19.09.2025)

(D.M. MISRA)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

Raja...