CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL BANGALORE

REGIONAL BENCH - COURT NO. 2

Customs Appeal No. 20560 of 2022

(Arising out of Order-in-Appeal No. 05/2022 dated 18.01.2022 passed by the Commissioner of Customs (Appeals), Bangalore.)

Principal Commissioner of Customs,
Airport & ACC Commissionerate,
Bengaluru. ....**Appellant(s)**

Versus

M/s. Power Tech Engineers
Shop No. E-92,
No. 9, J C Road, Auto Towers,
Bengaluru – 560 002. ……..**Respondent(s)**

APPEARANCE:

Mr. M. Sreekanth, Authorized Representative (AR) for the Appellant
Mr. Dilip Khater, Authorized Representative for the Respondent

CORAM:

Hon'ble Mr. P.A. Augustian, Member (Judicial)
Hon'ble Mr. Pullela Nageswara Rao, Member (Technical)

Final Order No. 20503 / 2026

Date of Hearing: 01.12.2025
Date of Decision: 25.03.2026

PER: P.A. AUGUSTIAN

The issue in the present appeal is regarding classification of the parts of 'diesel engine and earth moving equipment' imported by the Respondent. The respondent had imported the above said goods and filed self-assessed Bills of Entry for the clearance of the goods under Section 17 of the Customs Act, 1962.

2. The brief facts are alleging that the Respondent had adopted wrong serial number and schedule of Notification, in respect of IGST and short paid the IGST, proceedings were initiated and Adjudication authority as per Order-in-Original dated 27.04.2020 rejected the claim for lower IGST and confirmed the demand of differential duty and the Commissioner (Appeal) as per the impugned Order-in-Appeal dated 18.01.2020 allowed the appeal and dropped the demand. The said order was reviewed and as per Order-in-Review cum Authorization dated 12.04.2022 the present appeal is filed before the Tribunal.

3. The grounds of filing the appeal *inter alia* are:

(i) The goods imported are 'con rod bearings', 'main bearings', 'con rod brush', 'thrust washer', 'cam brush' etc., (Parts for Diesel Engine and Earth Moving Equipment) falling under Customs Tariff Heading (CTH) 8483, which are cleared under Bills of Entry No. 6598832 dated 30.05.2018 and 7134688 dated 09.07.2018.

(ii) There is no dispute in classification of the Customs Tariff Heading (CTH) either by the department or by the appellant.

(iii) However, as per Notification No. 01/2017-IT(RT) dated 28.06.2017, the goods falling under CTH 8483 were placed under Sl. No.135 of Schedule-IV-28% and therefore the Importer was required to pay IGST at the rate of 28%.

Whereas vide Notification Nos. 35/2017-IT (RT) dated 13.10.2017 and 43/2017-IT (RT) dated 14.11.2017 the aforementioned Entry Nos. of Notification No. 01/2017 IT (RT) dated 28.06.2017 has been amended as under:

Notification No.35/2017 IT(RT) dated 13.10.2017

....

C) in Schedule III- 18%

....

(xvi) after Sl. No. 369 and the entries relating thereto, the following serial number and the entries shall be inserted, namely:-

"369A 8483 Plain shaft bearings"

(D) in Schedule IV -28%

....

(vi) in Sl. No. 135, in column (3), the words, "and plain shaft bearings", shall be omitted.

Notification No. 43/2017 IT (RT) dated 14.11.2017

In Schedule I- 5%

....

(Ixxxix) in Sl. No. 369A, for the entry in column (3), the entry "Crank shaft for sewing machine, bearing housings; **plain shaft bearings**: gears and gearing: ball or roller screws shall be substituted;

....

In Schedule IV:

....

....

(vi) in Sl. No. 135. for the entry in column (3), the entry Transmission shafts (including cam shafts and crank shafts) and cranks (excluding crankshaft for sewing machine): gear boxes and other speed changers, Converters, flywheels and pulleys, including pulley blocks: clutches and shaft couplings (including universal joints)" shall be substituted:

(vii) Sl. Nos. 136, 137,138 and the entries thereto, shall be omitted

With the above amendments in Notification No. 01/2017 (IT) (Rate) dated 28.06.2017, the subject goods are chargeable to IGST @ 28%.

(a) under Schedule IV- 28% at Sl. No.135 upto 13.11.2017 by the amending Notification No.35/2017 dated 13.10.2017; and

(b) under Schedule IV- 28% at Sl.No.135 with effect from 14.11.2017, onwards, in terms of Notification No.43/2017 (IT) (Rate) dated 14.11.2017.

4. When the appeal came up for hearing, Learned Authorized Representative (AR) for the Appellant-Revenue reiterated the grounds of appeal and submits that the impugned order dropping the demand is unsustainable. Learned AR further submits that the Respondent has misinterpreted the scope of the exemption notification.

5. As regards, the finding that "Revenue acted without application of mind, misdescribed goods intentionally, and passed orders without considering evidence, amounting to harassment", Learned AR submits that such submission is not tenable since the issuance of SCN and Order-in-Original was based on *prima facie* evidence and legal interpretation of Tariff entries. The Commissioner (Appeals)'s observation on "lack of reasoned order" is not a finding of mala fide, but a procedural critique. There is no evidence of willful misdescription or intent to harass; the Sl. No. of Notification dispute is a bona fide interpretational difference. The claim that Revenue: "made up" the case is not supported by evidence, is unnecessarily aggressive, and there is no proof of any hidden motive. Learned AR also draws our attention to the judgment of the Hon’ble Supreme Court in the matter of **Commissioner of Cus. (import), Mumbai Vs. M/s Dilip Kumar & Company (2018 (361) E.L.T 571 (S.C)** and submits that for claiming the benefit of exemption notification, the burden of proof is on the importer to establish eligibility for exemption, which has not been discharged with legal certainty.

6. Learned Authorized Representative for the Respondent submits that as per the Revenue appeal, it is categorically stated that there is no dispute in classification of the Customs Tariff Heading (CTH) either

by the Department or by the Appellant. Further appellant had admitted that the goods imported are 'con rod bearing', 'main bearing', 'con rod brush', 'thrust washer', 'cam brush', etc., which are cleared under the above said Bills of Entry. Considering the Notifications and the amendment brought as above, it is well settled that the amendment under Sl. No. 369A is not amended and the 'transmission shaft is only a plain shaft bearing as declared by the Respondent.

7. In rejoinder, Learned AR submits that the respondent's argument *inter-alia* is that Goods are "plain shaft bearings" under Notification No.35/2017 (Schedule III-18% IGST), not "transmission shafts" under Schedule-IV (28% IGST). Notification No. 43/2017 did not amend the relevant entry is baseless as the same has already been discussed in Para 9 to 11 of Order-in-Original.

8. Heard both sides and perused the record.

9. We find that it is an admitted fact that Respondent had imported the goods against 2(two) Bills of Entry and classified them under Customs Tariff Heading (CTH) 8483. As per the Revenue appeal, there is no dispute in classification of the Customs Tariff Heading (CTH) either by the Revenue or by the Respondent. However, as per the Revenue, as per Notification No. 1/2017-IT (RT) dated 28.06.2017, the goods falling under Customs Tariff Heading (CTH) 8483 were placed under Sl. No. 135 of the Schedule-IV-28% and therefore, the respondent is liable to pay IGST@ 28% whereas the Respondent is claiming that as per Notification No. 35/2017 dated 13.10.2017, in Schedule III-18% after Sl. No. 369, Entry No. 369A was introduced for Customs Tariff Heading (CTH) 8483 for 'plain shaft bearing' and with that, bearing imported by the appellant are falling under Schedule-III-18%. Further Sl. No.135 in Column No. 3, the words "plain shaft bearing" was omitted. Thus, with this amendment by Notification No. 35/2017-IT(RT), the goods imported by the Respondent were placed under Sl. No. 369A in Schedule-III attracting IGST @18% and not under Schedule-IV attracting IGST @ 28%. We find that once the goods imported by the Respondent are brought under Schedule-III at Sl. No. 369A, the

amendment under Schedule-IV-28% as per Notification No. 43/2017 w.e.f. 14.11.2017, is not applicable to the goods imported by the Respondent and the Respondent rightly claimed the benefit of Sl. No. 369A as 'Plain Shaft Bearings' with IGST @ 18%.

10. In view of the above discussion the impugned order is liable to be upheld. Accordingly, the impugned order is upheld and the appeal filed by the Revenue is dismissed.

(Order was pronounced in Open Court on 25.03.2026)

(P. A. Augustian)
Member (Judicial)

(Pullela Nageswara Rao)
Member (Technical)

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