CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 20175 of 2020

(Arising out of Order-in-Appeal No.17/2020 dated 24.01.2020 passed by the Commissioner of Customs (Appeals), Bangalore.)

M/s. Manipal Technologies Ltd.
Udayavani Building,
Press Corner,
Manipal – 576 104.

Appellant(s)

VERSUS

The Commissioner of Customs
New Customs House,
Panambur,
Mangaluru – 575 010.

Respondent(s)

APPEARANCE:

Shri Ravi Raghavan with Ms. Purvi Asati and Ms. Ashwini Nag, Advocates for the Appellant.

Shri Vikalp Jain, Superintendent (AR) for the Respondent.

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

FINAL ORDER NO. 20624 /2026

DATE OF HEARING: 27.03.2026

DATE OF DECISION: 27.03.2026

PER: R. BHAGYA DEVI

This appeal is filed by the appellant M/s. Manipal Technologies Ltd. against Order-in-Appeal No.17/2020 dated 24.01.2020 passed by the Commissioner of Customs (Appeals), Bangalore.

2. The appellant M/s. Manipal Technologies Ltd. imported 3 consignments of under the description of 'Art Paper' vide bills of entry Nos. 8815704 dated 12.11.2018, 8829497 dated 13.11.2018 and 9426687 dated 27.12.2018. The goods were cleared by classifying the same under CTH 4810 3200. Subsequently the appellant realised that the products were actually were wrongly classified under CTH 4810 3200 instead of 4810 2200 since the goods that were supplied was only 'lightweight coated paper'. Thus, immediately on noticing the error of classification the appellant vide letter dated 01.02.2019 within three months of filing the bills of entry the requested for amendment of the bills of entry under Section 149 of the Customs Act, 1962 stating that there was an inadvertent error of classification while filing the bills of entry. However, the same was rejected on the ground that the assessments were not challenged and the assessment of the above bills of entry was not challenged by filing an appeal under Section 128 of the Customs Act, 1962 we just beyond the controllable. In terms of Section 128 of the Customs Act, 1962. Hence, this appeal.

3. The Learned Ccounsel rejecting the order of the Commissioner(Appeals) submits that Section 149 of the Customs Act, 1962 provides the proper officer to allow amendment of any document after it has been presented in the custom house and the only condition provided in the proviso to the section is that no bill of entry shall be authorised to be amended after clearance for home consumption unless the amendment is based on documentary evidence which was in existence at the time of clearance of the goods. Therefore, the Commissioner (Appeals) rejecting on the ground that no appeal was filed under Section 128 of the Customs Act, 1962 cannot be sustained.

3.1 Relying on the decision of the Hon'ble High Court of Bombay in the case of **Dimension Data India Pvt. Ltd. versus**

Commissioner of Customs 2021 (376) ELT 192 (Bom.) affirmed by the Hon'ble Supreme Court in 2022 (379) ELT 192 A39 (SC), wherein it was held that the modification and reassessment of the bill of entry can be done under other relevant provisions of the Customs Act, including Section 149. Also relied on the decision of the Hon'ble High Court of Madras in the case of **Usha International Ltd. versus Assistant Commissioner of Customs, Chennai, 2019 (365) ELT 56 (Mad.).**

3.2 Further the learned counsel also submits that, the LWC paper imported by them was rightly classifiable under CTH 4810 22 00 whereas art paper was classifiable under 4810 1320. It is his submission that the technical specifications enclosed along with the bill of entry was only for LWC paper hence the inadvertent errors committed by them need to be amended/ corrected under Section 149/154 of the Customs Act, 1962. Therefore, the Commissioner (Appeals) was wrong in assuming that only an appeal against the assessment order would be the right way for change of classification.

4. The Authorised Representative reiterated the findings of the Commissioner (Appeals) in the impugned order.

5. Heard both sides. The Hon'ble High Courts and the Hon'ble Supreme Court have all along held that any self-assessment of the bill of entry is also an assessment and hence any change in the assessment is possible either by filing of an appeal before the Commissioner (Appeals) under Section 128 or under Section 149 or under Section 154 of the Customs Act, 1962. Since, the appellant had filed a request for amendment under Section 149 within three months of filing the bill of entry the question of rejecting the same on the ground that no appeal has been filed under Section 128 cannot be sustained. The Hon'ble High Court

of Bombay in the case of **Dimension Data India Pvt. Ltd. versus Commissioner of Customs** (Supra) in similar set of facts observed as follows:

> "17. Section 149 deals with amendment of documents. It says that save as otherwise provided in Sections 30 and 41 which deals with delivery of arrival manifest or import manifest or import report and delivery of departure manifest or export manifest or export report, the proper officer may, in his discretion, authorise any document, after it has been presented in the customs house to be amended in such form and manner and within such time, subject to such restrictions and conditions, as may be prescribed. As per the provisio, 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.
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> 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 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."
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> 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 bring 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 arising 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.

22. Having noticed and analysed the relevant legal provisions, we may now turn to the decision of the Supreme Court in *ITC Ltd.* v. *Commissioner of Central Excise, Kolkata-IV* (supra). The question which arose before the Supreme Court was whether in the absence of any challenge to the order of assessment in appeal, any refund application against the assessed duty could be entertained.

22.1 From the question itself, it is clear that the issue before the Supreme Court was not invocation of the power of reassessment 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* (emphasis ours).

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.

23. In *Maharashtra Cylinders Private Limited* (supra), a Division Bench of this court also reiterated the proposition that unless an order of self-assessment is varied or altered, question of refunding the duty paid on self-assessment does not arise at all. Validity of an assessment cannot be

considered while dealing with a refund claim. Therefore, this decision on the face of it is clearly distinguishable and is not at all applicable to the facts of the present case.

24. In the instant case, petitioner has not sought for any refund on the basis of the self-assessment. It has sought reassessment upon amendment of the Bills of Entry by correcting the customs tariff head of the goods which would then facilitate the petitioner to seek a claim for refund. This distinction though subtle is crucial to distinguish the case of the petitioner from the one which was adjudicated by the Supreme Court and by this Court.

25. Grievance of the petitioner is not on the merit of the self-assessment as the petitioner is aggrieved by the failure on the part of the respondents to carry out amendment in the Bills of Entry by replacing the incorrect CTH by the correct one namely by replacing CTH '8517 69 90' with '8517 69 30' which was declared inadvertently by the petitioner at the time of fling the Bills of Entry. This request of the petitioner, in our opinion, falls squarely within the domain of Section 149 read with Section 154 of the Customs Act. Upon amendment in the Bills of Entry by correcting the CTH, consequential reassessment order under Section 17(4) of the Customs Act would be in order.

26. Madras High Court in *M/s. Hewlett Packard Enterprise India Private Limited* (supra) correctly held that in a case of correction of inadvertent error, the appropriate remedy would be seeking an amendment to the Bills of Entry and not filing of appeal because there is no legal flaw in the order of self-assessment amenable to appeal but only a factual mistake which can be rectified by way of amendment or correction. Such correction or amendment has been sought for by the petitioner on the basis of documents which were already in existence at the time of release of the goods for home consumption.

27. The expression "mistake" appearing in Section 154 of the Customs Act may be defined as something done unintendedly or through inadvertence. The section itself says that the error in any decision or order should be due to any accidental slip or omission. Moreover, it can be a mistake of law or a mistake of fact. In all cases it need not be an arithmetical error alone. It

may connote errors which can be discerned upon due verification. Having said so, we may also indicate that power to amend documents available under Section 149 of the Customs Act read with correction of clerical or arithmetical mistakes or errors in orders due to accidental slip or omission under Section 154 thereof is different and distinct from the appellate power exercised under Section 128 of the Customs Act. The power of amendment or correction, as the case may be, is vested on the same officer who had passed the initial order or an officer of equivalent rank. On the other hand, appellate jurisdiction is directed to correct decisions or orders passed by an inferior or lower authority. By its very nature an appellate authority is superior to the authority which had passed the order appealed against.

28. In the light of the above, we are of the view that petitioner has made out a case for issuance of a direction to the respondents for correction of the mistake or error in classification of the goods from CTH '8517 69 90' to '8517 69 30' and thereby for amendment of the Bills of Entry. Refusal of the respondents to look into the aforesaid grievance of the respondents is therefore not justified".

5.1 In view of the above, we do not find any merit in the impugned order, the same is set aside.

Appeal is allowed with consequential relief, if any, as per law.

(Operative portion of the order was dictated and pronounced in Open Court.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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