CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL BANGALORE

REGIONAL BENCH - COURT NO. 2

Customs Appeal No. 22318 of 2014

[Arising out of Order-in-Appeal No. 211/2014 Cus(B) dated 23.06.2014 passed by the Commissioner of Customs (Appeals) Bangalore]

Shri Gurmukh Singh
Partner, M/s. Neelkanth Jewellers
No. 5, Richmond Road
Bangalore – 560 025 .... **Appellant(s)**

VERSUS

Principal Commissioner of Customs Bengaluru
Airport and Air Cargo Commissionerate
Kempegowda International Airport
Devanahalli
Bengaluru – 560 300 .... **Respondent(s)**

WITH

Customs Appeal No. 22326 of 2014

[Arising out of Orders-in-Appeal No. 16 & 17/2014 Cus(B) dated 23.04.2014 passed by the Commissioner of Customs (Appeals) Bangalore]

M/s. Neelkanth Jewellers
No. 5, Richmond Road
Bangalore – 560 025 .... **Appellant(s)**

VERSUS

Principal Commissioner of Customs Bengaluru
Airport and Air Cargo Commissionerate
Kempegowda International Airport
Devanahalli
Bengaluru – 560 300 .... **Respondent(s)**

APPEARANCE:

Mr. K.V. Srinivasa Prasad, Advocate for the Appellant
Mr. Sreekanth M., Assistant Commissioner (AR) for the Respondent

CORAM:

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

FINAL ORDER NOS. 20849 - 20850 /2026

Date of Hearing: 27.02.2026
Date of Decision: 25.06.2026

PER: P.A. AUGUSTIAN

The issue in the present appeals is whether the benefit of exemption Notification No. 85/2004-Cus dated 31.08.2004 as per Indo-Thailand Free Trade Agreement can be extended to the appellant.

2. The brief facts are the appellant-M/s Neelkanth Jewellers is engaged in manufacture and trading of gold jewellery and imported gold from Thailand duly supported by the original Certificate of Origin (COO) issued by the designated authority in Thailand by classifying the goods under the Customs Tariff Heading (CTH) 7113 19. Alleging that appellant has violated the conditions of Notification, Additional Director, DRI has proceeded to issue a show cause notice dated 28.02.2013 proposing to demand differential Customs Duty amounting to Rs. 14,36,747/- under Section 28(4) of the Customs Act, 1962, proposing to levy interest under Section 28AA of the Customs Act, 1962, and proposing to confiscate the seized gold jewellery weighing 641.64 grams studded with 110.12 carats diamonds valued at Rs. 63,29,500/- under Section 111(m) and with Section 111(o) of the Customs Act, 1962 and also proposing the confiscation of gold jewellery imported and cleared vide 5 (five) Bills of Entry, totally valued at Rs. 1,29,71,096/- under Section 111(m) and Section 111(o) of the Customs Act, 1962. It is also proposed to impose penalties on the appellant-M/s Neelkanth Jewellers under Section 114A and section 114AA of the Customs Act, 1962. Further penalty was proposed on Shri. Gurmukh Singh, partner of the Company under Section 112(a) of the Customs Act, 1962. Adjudication Authority as per the order dated

30.08.2013 denied the benefit of Notification, confirmed demand of duty along with interest and ordered confiscation of the goods and redemption fine and imposed penalty on the appellant-M/s Neelkanth Jewellers and on Shri. Gurmukh Singh, partner of M/s Neelkanth Jewellers. Aggrieved by said order, appeals were filed by both appellant and the Department before Commissioner (Appeals) and Commissioner (Appeals) as per the impugned order dated 23.04.2014, rejected the appeals filed by the appellants herein and allowed the appeal filed by the Revenue by imposing penalty equivalent to duty and interest under Section 114A of the Customs Act, 1962. Aggrieved by said order, present appeals are filed.

3. When the appeals came up for hearing, Learned Counsel for the appellant submits that the Governments of India and Thailand have entered into a Treaty called "Indo-Thailand Free Trade Agreement" under which certain specified goods can be imported from Thailand to India by Indian importers without having to pay the basic customs duty and countervailing duty. The CBEC has issued notifications under the Customs Act, 1962 to give effect to the above said Agreement by issuing Customs Notification No. 85/2004-Cus, dated 31.08.2004 as amended from time to time read with Customs Non-Tariff Notification No. 101/2004-Cus. (N.T.), dated 31.08.2004. The imports under the above said Agreement are liable only for levy of Special Additional Customs Duty of 1%. One of the products specified under the above said Free Trade Agreement is unbranded gold jewellery falling under the Customs Tariff Heading (CTH) 7113 19. The import of specified goods under the said Indo-Thailand Free Trade Agreement is subject to the exporter in Thailand furnishing to the Indian importer a Certificate of Origin (COO) for the specified goods as originating from Thailand under the conditions of change in tariff classification up to 4 digit level and local value added content being fulfilled either together or independently of each other, as the case may be, in terms of the Rule 6(b) of the Interim Rules of Origin under the Indo-Thailand Free Trade Agreement. The Certificate of Origin is to be granted by the designated authority in Thailand. The importer in India has to submit, in addition to

Bill of Entry, the Certificate of Origin (COO) issued by the designated authority in Thailand to avail the benefit.

4. Learned Counsel for the appellant submits that the appellant has been fully complying with all the statutory formalities required to import the specified goods, viz., unbranded gold jewellery from Thailand under the said Free Trade Agreement to avail the duty concessions granted under the same. The details of the conditions complied by the appellant are under:-

(a) Imported unbranded gold jewellery falling under the Customs Tariff Heading (CTH) 7113 19 from Thailand;

(b) The goods are covered under duty-free treatment under the Customs Notification No. 85/2004-Cus dated 31.08.2004, as amended;

(c) The exporter in Thailand has furnished the necessary Certificate of Origin issued by the designated Government authority in Thailand;

(d) The imported gold jewellery under the Indo-Thailand Free Trade Agreement was received by the appellant at Air Cargo in Bangalore Airport and covered by duly filed five Bills of Entry containing all the relevant details for customs assessment and facilitation of clearance;

(e) The necessary Certificate of Origin was also (COO) was submitted to customs authorities in support and evidence of duty-free import;

(f) The Customs Assessing Authority verified the import documents, assessed the same and allowed clearance of the imported goods for home consumption.

(g) The import transactions are absolutely without any blemish or breach of the law concerned.

5. Learned counsel further submits that the entire proceedings initiated by the Revenue is unsustainable since the all the 5(five) Bills of Entries detailed in Annexure 'A' to the show cause notice, which were already assessed and cleared by the Jurisdictional Customs Authority.

6. As regards allegation of non-compliance, learned Counsel draws our attention to the Notification No. 101/2004-Cus (N.T) dated 31.08.2004 and to relevant rules therein are reproduced below:

> *"Rule 4. Originating Goods - For the purposes of these rules, products imported by a Party shall be deemed to be originating and eligible for preferential tariff concessions' if they conform to the origin requirements under anyone of the following:*
>
> *(a) Products which are wholly obtained or produced in the territory of the exporting Party as set out and defined in Rule 5; or*
>
> *(b) Products not wholly produced or obtained in the territory of the exporting Party provided that the said products are eligible under Rule 6 or Rule 7, and Rule 8."*
>
> *"Rule 6. Not-wholly produced or obtained. (a) For the purposes of rule 4(b), the following general criteria should be applied, provided that the final process of the manufacture is performed within the territory of the exporting party and subject to rule 8:*
>
> > *(i) local value added content criterion,*
> >
> > *(ii) a change in tariff classification criterion between the export product and all non-originating materials used in its production.*
> >
> > *…………."*

7. Learned Counsel further draws our attention to the conditions applicable to goods falling under Customs Tariff Heading (CTH) 7113 19 and also draws our attention to Annexure B to Interim Rules of Origin and submits that the said Rule prescribes the method of determining the origin of products eligible for the preferential tariff concessions for the Early Harvest Scheme pursuant to the Framework Agreement between the Republic of India and the Kingdom of Thailand and as per said Rule 15, the only method of discarding the credibility of Country of Origin (COO) certificate is to follow the Rule 15 that too within the

period of 3(three) months as prescribed in the provision. Relevant Rule is reproduced below:

"Rule 15

(a) The importing Party may request a retroactive check at random and/or when it has reasonable doubt as to the authenticity of the document or as to the accuracy of the information regarding the true origin of the products in question or of certain parts thereof.

(b) The request shall be accompanied with the Certificate of Origin concerned and shall specify the reasons and any additional information suggesting that the particular given on the said Certificate of Origin may be inaccurate, unless the retroactive check is requested on a random basis

(c) The Customs Authority of the importing Party may suspend the provisions on preferential treatment while awaiting the result of verification. However, it may release the products to the importer subject to any administrative measures deemed necessary, provided that they are not held to be subject to import prohibition or restriction and there is no suspicion of fraud.

(d) The Issuing Authority receiving a request for retroactive check shall respond within three (3) months after the receipt of the request."

8. In this regard, learned Counsel draws our attention to the finding in the impugned order which is reproduced below:

"8.1 In the meantime, as envisaged in Rule 15 and Rule 20 of Annexure B (Operational Certification Procedures for Interim Rules of Origin...for the Early Harvest Scheme) of the Interim Origin Rules, it has been decided to make a reference to the designated authority of Kingdom of Thailand."

8.1 Learned Counsel submits that no steps were taken to comply with the above said provision and Adjudication Authority has considered the invoices to find out the value addition and by completely excluding the value of materials used for manufacturing the goods. Thus, it is alleged that value addition is lower than the prescribed value addition of 20%. Such method is also not in accordance with law. Learned counsel further submits that the issue is no more *res integra* and covered by the decision of the Tribunal in the case of **Romil Jewelry Vs. Commissioner of Customs, Air Cargo Complex, Mumbai - (2024) 18 Centax 320 (Tri.-Bom.),** where following the judgment of the Hon'ble High Court of Karnataka in the matter of **Yellamma Dasappa Vs. Commissioner of Customs, Bangalore - 2000 (120) ELT 67(Kar.)** and Tribunal in the matter of **Dhar Cement Ltd. Vs. CCE, Indore -2016 (335) ELT 292 (Tri.-Del)**, it is held that :

> *"7……….We find the original authority has no such legal powers to sit on judgment on the certificate issued by the competent authority designated by the Government. In case the certificate was obtained by misrepresentation or not presenting full facts the only option left to the Department is to approach the competent authority with all the evidences to modify/cancel the certificate issued already. The Department did approach not only the Director of Industries but also Commissioner of Industries with all the evidences which were examined and the certificate was reiterated by the competent authority. As already noted, no other evidence was left to be considered."*

9. Learned Authorised Representative (AR) for the Revenue reiterated the findings in the impugned order.

10. Heard both sides and perused the records.

11. We find that the issue is no more *res integra* and since the Revenue has not followed the procedure prescribed as per the provisions of the relevant Notification No. 101/2004-Cus (N.T) dated 31.08.2004 to discard the credibility of the Country of Origin (COO)

certificate produced by the appellant, impugned order denying the benefit of Notification No. 85/2004-Cus. dated 31.08.2004 is unsustainable, hence the impugned order is liable to be set aside. Further the penalty imposed on Shri Gurmukh Singh, partner of the appellant firm under Section 112(a) of the Customs Act, 1962 is also unsustainable and hence, liable to be set aside.

12. Accordingly, the impugned order is set aside and the appeals are allowed with consequential relief, if any, in accordance with law.

(Order pronounced in open court on 25.06.2026)

(P.A. Augustian)
Member (Judicial)

(Pullela Nageswara Rao)
Member (Technical)

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