CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL BANGALORE

REGIONAL BENCH - COURT NO. 2

Central Excise Appeal No. 22033 of 2014

(Arising out of Order-in-Appeal No. 191/2014-CE dated 27.03.2014 passed by the Commissioner of Central Excise, (Appeals-I), Bangalore.)

BPL Techno Vision Pvt Ltd
17th Km, Avalahalli, Virgonagar Post, Old Madras Road,
Bangalore, Karnataka – 560 049. **........Appellant(s)**

VERSUS

Commissioner of Central Excise,
P.B. NO. 5400, C R Building,
Bangalore, Karnataka – 560 001. **........Respondent(s)**

WITH

Central Excise Appeal No.20753 of 2017

(Arising out of Order-in-Appeal No. 122-123/2017 dated 20.02.2017 passed by the Commissioner of Central Excise, (Appeals-II), Bangalore.

BPL Techno Vision Pvt Ltd
17th Km, Avalahalli, Virgonagar Post, Old Madras Road,
Bangalore, Karnataka – 560 049. **........Appellant(s)**

VERSUS

Commissioner of Central Excise,
P.B. NO. 5400, C R Building,
Bangalore, Karnataka – 560 001. **...........Respondent(s)**

AND

Central Excise Appeal No. 20754 of 2017

(Arising out of Order-in-Appeal No. 122-123/2017 dated 20.02.2017 passed by the Commissioner of Central Excise, (Appeals-II), Bangalore.

BPL Techno Vision Pvt Ltd
17th Km, Avalahalli, Virgonagar Post,
Old Madras Road,
Bangalore, Karnataka – 560 049. **........Appellant(s)**

VERSUS

Commissioner of Central Excise,
P.B. NO. 5400, C R Building,
Bangalore, Karnataka – 560 001. **...........Respondent**

Appearance:

Mr. Rohan Karia and Ms. Ayushree Jhawar, Advocates for the Appellant
Mr. M. A. Jithendra, Authorised Representative (AR) for the Respondent

CORAM:

HON'BLE MR. P.A. AUGUSTIAN, MEMBER (JUDICIAL)
HON'BLE MR. PULLELA NAGESWARA RAO, MEMBER (TECHNICAL)

Final Order Nos. 20977-20979/2026

Date of Hearing: 30.10.2025
Date of Decision: 29.04.2026

Per: Pullela Nageswara Rao

These 3(three) appeals are filed by the appellant against Order-in-Appeal No. 191/2014-CE dated 27.03.2014 passed by the Commissioner of Central Excise, (Appeals-I), Bangalore and Orders-in-Appeal No. 122-123/2017 dated 20.02.2017 passed by the Commissioner of Central Excise, (Appeals-II), Bangalore, respectively.

2. The issue in the present appeals is regarding classification of the goods manufactured by the Appellant under Central Excise Tariff Heading (CETH) 9405 2010 as declared by the appellant or under Central Excise Tariff Heading (CETH) 8513 1090 as confirmed by the Revenue.

3. The brief facts are the Appellant is registered for manufacturing excisable goods including rechargeable lanterns, speakers, digital satellite receiver, solar lanterns, etc. During the course of Audit, it is observed that for the period from August 2009 to July 2011, Appellant was clearing the products rechargeable lanterns/ emergency lamps /study lamps and classifying the same under Central Excise Tariff Heading (CETH) 8513 1090 and paying duty @ 10.3%. However, the appellant re-classified these goods under Central Excise Tariff Heading (CETH) 9405 2010 with effect from 27.03.2010 and started paying duty @ 4% by availing the benefit of Notification No. 06/20006-CE dated 01.03.2006. Alleging that the Appellant willfully suppressed the facts regarding actual payment of excise duty, proceedings were initiated and show cause notice was issued on 21.02.2012 for the period from

March 2010 to August 2011. Thereafter Adjudication authority as per the Order-in-Original dated 08.11.2012 reclassified the goods under Central Excise Tariff Heading (CETH) 8513 1090 and confirmed duty along with interest and imposed penalty. Aggrieved by said order, an appeal was filed before the Commissioner (Appeals) and Commissioner (Appeals) as per the impugned order, rejected the appeal. Aggrieved by the said order, Appeal No. E/22033/2014 was filed. Further Show cause notice was issued on 09.10.2012 for the period from September 2011 to October 2011 and Adjudication authority as per the Order-in-Original dated 26.03.2013 reclassified the goods under Central Excise Tariff Heading (CETH) 8513 1090 and confirmed duty along with interest and imposed penalty. Aggrieved by said order, an appeal was filed before Commissioner (Appeals). Further Show cause notice was issued on 21.11.2012 for the period from November 2011 to September 2012 and Adjudication authority as per the Order-in-Original dated 25.10.2013 reclassified the goods under Central Excise Tariff Heading (CETH) 8513 1090 and confirmed duty along with interest and imposed penalty. Aggrieved by said order, an appeal was filed before the Commissioner (Appeals). Thereafter Commissioner (Appeals) considered both the orders of the adjudicating authority and as per common impugned order, rejected the appeals. Aggrieved by said orders, Appeal No. E/20753/2017 and Appeal No. E/20754/2017 were filed.

4. Since the issue involved in all the 3(three) appeals is common, they are together taken up for hearing and decided by this order.

5. Learned Counsel for the Appellant during the hearing submits that as per the Harmonized System Nomenclature (HSN) for Chapter Heading 8513 which pertains to 'portable electric lamps' designed to function by their own source of energy (for example dry battery, accumulators, magnetos) other than lighting equipment of Heading 8512 are classifiable under Chapter Heading 8513 1090. Further draws our attention to the Explanatory Notes under Chapter Heading 8513 where it is specifically stated that this Heading covers 'portable electric lamps' designed to function by means of a self-contained source of

electricity, dry cell, accumulator or magnetos. The term "portable lamps" refers only to those lamps (i.e., both the lamp and its electricity supply) which are designed for use when carried in the hand or on the person. They usually have a handle or a fastening device and may be recognized by their particular shapes and their light weight.

6. Learned Counsel further submits that Chapter Heading 9405 includes lamps and light fittings including search lights and spotlights and parts thereof not elsewhere specified or included; illuminated signs, illuminated name plates and the lights having a permanently fixed light source and parts thereof not elsewhere specified are also included. Further Chapter sub-Heading 9405 20 covers electrical tables, desk, bedside or floor-standing lamps, Chapter Item entry 9405 2010 covers table lamps, complete fittings and Chapter item entry 9405 2020 covers others under the above category.

7. Learned Counsel further draws our attention to the letter dated 30.04.2010 addressed to the Respondent where the Appellant had informed the Revenue that as per the expert opinion, the LED Lamps manufactured by them are classifiable under Chapter Item entry 9405 2010 of the Central Excise Tariff Act, 1985 and therefore adopted the said classification from 27.03.2010 onwards in respect of all clearances of Light Emitting Diode (LED) Lamps. Learned Counsel further draws our attention to the Audit observation vide Audit Note No. 160/2011 dated 07.12.2011 and submits that as per the finding in the impugned order, it is seen from the technical write-up on Rechargeable Lantern, Emergency Lamps and Study Table lamps (study lite) submitted by the appellant shows that these goods are fitted with Light Emitting Diodes (LEDs) and Rechargeable Batteries (accumulators). These are also powered through AC mains. In other words, these products can work both on built-in rechargeable battery and directly through AC mains. These goods while working on the main power supply also simultaneously charges the batteries. If the main power supply from AC is cut-off, the lamps will automatically switch over to the built-in battery power and would give an uninterrupted power supply to the lamp. Thus, it is very clear that the Rechargeable

function is built-in the re-chargeable battery and power supply for recharging the battery is drawn from Alternate Current (AC) mains supply. The impugned Rechargeable Lantern, Emergency Lamps and Study table Lamps (Study Lite) are designed in such a way that these lamps are used during power cuts or when the main power supply is not available. These lamps are also provided with handle for portability. These products are commonly known as Rechargeable Lantern/ Emergency Lamps/ Study Lamps in the market.

8. Learned Counsel further submits that the issue is whether the product is designed for use in electric circuits. In this regard, the learned counsel submits that the product manufactured by the Appellant is a portable product and in order to ensure uninterrupted availability of light, the lantern works by using main supply from the Electric Board. Also, the rechargeable battery charges while the charging plug is connected to the Alternate Current (AC) mains supply. During the power outages, the lantern continues to work for about 4 to 5 hours with the help of inbuilt battery. The Learned Counsel also draws our attention to the General Rules of Interpretation of the First Schedule to the Central Excise Tariff, 1985 and as per clause 3(c) when goods cannot be classified by reference to 3(a) and 3(b), they shall be classified under the Heading which occur last in numerical order among those which equally merit consideration. Further as per Rule 4, goods which cannot be classified in above Rule shall be classified under the Heading appropriate to the goods which they are most akin. Thus, the Appellants submits that the HSN explanatory note to Chapter Heading 8513 covers only 'PORTABLE ELECTRIC LAMPS' designed to function by their own source of energy (for example, dry batteries, accumulators, magnetos), other than lighting equipment of heading 85.12.

9. The Learned Counsel further submits that if the Revenue alleges classification of any product under a particular heading, the burden is always on the Revenue to produce any evidence. However, in the present case, the Department has merely proceeded on the basis of wrong assumption that the impugned goods function on their own source of energy and classified them under Central Excise Tariff Item

(CETI) 8513 1090. In this regard, reliance is placed on the decision of **Hindustan Ferodo Ltd. Vs. CCE, Bombay, 1997 (89) E.L.T. 16 (S.C.).**

10. Learned Counsel further submits that the Appellant is also eligible for exemption under Notification No. 12/2012-CE dated 17.03.2012 which was allowed by the Adjudication authority and considering the spirit of the Notification, said benefit should have been extended to the Appellant, since the intention of the Central Government was to give benefit of concessional rate of duty to all the goods manufactured using Light Emitting Diode (LED) lights.

11. Learned Counsel further submits that the demand for the period prior to February 2011 is barred by limitation as the Appellant had re-classified the impugned goods and the same was intimated to the Department vide letter dated 30.04.2010. However, the Department had not raised any objection whatsoever on the re-classification till the date of issuance of the Audit note on 07.12.2011. The above said fact clearly shows the bonafide of the Appellants for claiming such re-classification. Further, the Appellants have been regularly filing the monthly ER-1 returns declaring the clearance of all products with description and the classification under which the product is cleared and the excise duty is paid or exemption is claimed. Thus, all the necessary facts relevant for the Department to make up its mind regarding the correct classification and eligibility to exemption of these products were in the knowledge of the Department. Hence, there is no suppression of facts for confirming demand by involving extended period of limitation. Further when the issue relates to a pure question of interpretation of the Tariff headings, as per the judgment of Hon'ble Supreme Court in the matter of **Densons Pultretaknik Vs. Commissioner of Central Excise, 2003 (155) E.L.T. 211 (S.C.),** it is settled that in a dispute prevailing around classification, the appellant cannot be charged with any suppression of facts. Further, the extended period of limitation cannot be invoked when the demand itself is based on the Audit objection. Reliance is also placed on the decision in the

matter of **M/s. Kalyani Steels Ltd. Vs. Commissioner of Central Excise, Belgaum, 2024 (3) TMI 6-CESTAT BANGALORE**.

12. The Learned Authorized Representative (AR) for the Revenue submitted the record of the proceedings under the Authority of Advance Ruling, Madhya Pradesh dated 08.05.2019 and submits that products in question are classifiable under Chapter Heading 8513 due to the reason that for the period from August 2009 to July 2011, Appellant were clearing the products rechargeable lanterns/ emergency lamps/ study lamp and classifying the same under Chapter Heading 8513 1090 and paying duty @ 10.3%. Learned AR further submits that the goods specified in Chapter Heading 9405 are mainly electric lamps and lighting fixtures which works with fixed source of energy. Condition of portability and functionality of own source of energy is missing and hence the product manufactured by the appellant is rightly classifiable under Chapter Heading 8513 and not under Chapter Heading 9405 just because the unit used Light Emitting Diode (LED) lights instead of Tube light, Compact Fluorescent Lamps (CFL) lights as a light emitting source. Further draws our attention to the show cause notice where it is stated that "Assessee is manufacturing 'PORTABLE ELECTRICAL LAMPS' commonly known as rechargeable lantern/ emergency lamps / table study lamps which functions on their own source of energy with dry batteries fitted within the said product. In order to classify the product under Chapter Heading 8513, three conditions are to be satisfied i.e. product should be an Electrical item, it is Portable and it functions on its own source of energy (dry batteries,) irrespective of the use of light emitting source viz., tube light, CFL or LED in the manufacture of the product. The item manufactured by the appellant known as rechargeable lantern / emergency lamps / study lamp are identifiable as such and therefore rightly classifiable under Chapter sub-heading 8513 1090 as the usage of a light source viz., tube light or CFL light or LED lights do not change/ alter classification of the product.

13. The Learned Authorized Representative (AR) as regards availing the benefit of Notification in Appeal No. 20754/2017 submits that the

appellant has cleared the rechargeable lamps manufactured by them by availing the benefit of Notification No.05/2006-CE dated 01.03.2006 during the period November 2011 to March 2012 and Notification No.12/2012-CE dated 17.03.2012 for the period from April 2012 to September 2012. Notification No.06/2006-CE dated 01.03.2006 which provided for exemption to specified goods falling under various Chapters was superseded by Notification No.12/2012-CE dated 17.03.2012. At Sl. No.71B of Notification No.06/2006-CE and at Sl.No.321 of Notification No. 12/2012, the goods which were eligible for exemption were 'LED lights and fixtures including LED Lamps' falling under Chapter Heading 9405 of Central Excise Tariff Act. However, Vide Notification No.24/2012-CE dated 08.05.2012, Notification No. 12/2012-CE was amended and entry at Sl.No.321 in Column No.2, Chapter 85 or 94 was substituted in place of Chapter Heading 9405. With the said amendment LED lights and fixtures including LED Lamps falling under Chapter 85 of Central Excise Tariff Act, 1985 were also eligible for exemption apart from goods falling under Chapter 94. Thus, there is no ambiguity from the description of the goods mentioned at Sl. No.71B or Sl.No.321 that the goods which were eligible for exemptions are 'LED lights and fixtures including LED Lamps' falling under Chapters 85 or 94 and considering the date of amendment w.e.f. 08.05.2012, the clearances in the subject cases being prior to 08.05.2012, when Chapter 85 was not included the appellant is not eligible for exemption. Therefore, the Adjudication Authority rightly confirmed the demand along with interest and imposed penalty.

14. The Learned AR further submits that HSN Explanatory Note to Chapter 9405 of Central Excise Tariff Act, 1985 provides that lamps which are connected to a fixed installation and use any source of light (candles, oil, petrol, paraffin (or kerosene), gas, acetylene, electricity, etc.) would be classifiable under Chapter Heading 9405. It further provides, that the said heading covers in particular lamps and lighting fittings normally used for the illumination of rooms e.g., hanging lamps, bowl lamps, ceiling lamps, chandeliers, wall lamps, standard lamps, table lamps, bedside lamps, desk lamps, night lamps,

watertight lamps. Thus, all goods specified under Chapter Heading 9405 of Central Excise Tariff Act, 1985 are electrical goods with fixed light source, incapable of working with own source of energy and not portable (if portable, it should be other than those of Chapter Heading 8513). Therefore, by comparing product specification/ functions with description of Chapter Sub-headings and HSN explanatory Notes to Chapter Heading 9405 of Central Excise Tariff Act, 1985, the Rechargeable Lantern, Emergency Lamps and Study Table lamps, which are included in the Chapter Heading 8513, does not merit classification under Chapter Heading 9405.

15. Heard both sides and perused the records.

16. We find that to consider the contentions of the appellant and the respondent it is relevant to examine the scope of the goods covered under Chapter Headings 8513 and Chapter Heading 9405, and the relevant HSN notes which reads as under:

Chapter Heading 8513:

8513	Portable electric lamps designed to function by their own source of energy (for example, dry batteries, accumulators, magnetos), other than lighting equipment of heading 8512		
8513 10	-Lamps:		
8513 10 10	---Torch	u	10%
8513 10 20	---Other flash-lights excluding those for photographic purpose	u	10%
8513 10 30	---Miners' safety lamps.	u	10%
8513 10 40	---Magneto lamps	u	10%
8513 10 90	---Other	u	10%
8513 90 00	-Parts	kg.	10%

HSN notes

85.13- Portable electric lamps designed to function by their own sources example, dry batteries, accumulators, magnetos), other than lighting heading 85.12.

8513.10 -Lamps

8513.90 -Parts

This heading covers portable electric lamps designed to function by means of a self-contained source of electricity (e.g., dry cell, accumulator or magneto).

They comprise two elements (i.e., the lamp proper and the source of electricity) which are usually mounted and directly connected together, often in a single case. In some types, however, these elements are separate and are connected by wires.

The term " portable lamps" refers only to those lamps (i.e., both the lamp and its electricity supply) which are designed for use when carried in the hand or on the person. They usually have a handle or a fastening device and may be recognised by their particular shapes and their light weight. The term therefore excludes lighting equipment for motor vehicles or cycles (heading 85.12), and lamps which are connected to a fixed installation (heading 94.05)

Chapter Heading 9405:

9405	Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included		
9405 10	- Chandeliers and other electric ceiling or wall lighting fittings, excluding those of a kind used for lighting public open spaces or thorough fares:		
9405 10 10	--- Hanging lamps, complete fittings	u	10%
9405 10 20	--- Wall lamps	u	10%

9405 10 90	--- Other	u	10%
9405 20	- Electric table, desk, bedside or floor-standing lamps :		
9405 20 10	--- Table lamps, complete fittings	u	10%
9405 20 90	--- Other	u	10%
9405 30 00	- Lighting sets of a kind used for Christmas trees	u	10%
9405 40	- Other electric lamps and lighting fittings :		
9405 40 10	--- Searchlights and spotlights	u	10%
9405 40 90	--- Other	u	10%

HSN notes:

94.05 - Lamps and lighting fittings including searchlight and spotlights and parts there of not elsewhere specified or included; illuminated signs, name plates the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included.

9405.10 Chandeliers and other electric ceiling or wall lighting fitting, excluding those of a kind used for lighting public men spaces or thoroughfares

9405.20 - Electric table, desk, bedside or floor-standing lamps

9405.30 - Lighting sets of a kind used for Christmas trees

9405.40 - Other electric lamps and lighting fittings

9405.50 - Non-electrical lamps and lighting fittings

9405.60 - Illuminated signs, illuminated name-plates and the like -Parts:

9405.91 - Of glass

9405.92 - - Of plastics

9405.99 - - Other

(I) LAMPS AND LIGHTING FITTINGS, NOT ELSEWHERE SPECIFIED OR INCLUDED

Lamps and lighting fittings of this group can be constituted of any material (excluding those materials described in Note 1 to Chapter 71) and use any source of light (candles, oil, petrol, paraffin (or kerosene), gas, acetylene, electricity, etc.). Electrical lamps and lighting fittings of this heading may be equipped with lamp-holders, switches, flex and plugs, transformers, etc., or, as in the case of fluorescent strip fixtures, a starter or a ballast.

17. We find that Chapter Heading 8513 covers 'Portable Electric Lamps' designed to function by their own source of energy other than lighting equipment of Chapter Heading 8512. The impugned lamps/ lanterns manufactured by the Appellant are rechargeable lanterns / emergency lamps /study lamps and to recharge the battery they are connected to the alternate current (AC) mains supply. As per the explanatory Note to Chapter Heading 9405 of Central Excise Tariff Act (CETA), 1985 it covers lamps which are connected to fixed installation (candles, oil, petrol, paraffin, gas, acetylene, **electricity** etc., and they are classifiable under Chapter Heading 9405 and this Heading covers lamps and lighting fittings normally used for illumination i.e., hanging lamps, bowl lamps, ceiling lamps, chandeliers, wall lamps, standard lamps, table lamps, bedside lamps, desk lamps, night lamps, watertight lamps. Further, we find that as per the explanatory notes to Chapter Heading 8513 of Central Excise Tariff Act, 1985, it covers portable lamps. Therefore, Chapter Heading 9405 of Central Excise Tariff Act, 1985 covers electrical goods which work on fixed external energy source, and they do not have an own source of energy and not portable and if portable then it should be other than those of Chapter Heading 8513. The impugned lamps which are rechargeable have a

facility for charging the rechargeable battery source by way of connecting the lamp to AC power source. The AC mains power source recharge the rechargeable batteries of the portable lamps. Therefore, the fact that the lamp is connected to the AC main for the purpose of charging the rechargeable battery does not make the lamp akin to the lamps falling under Chapter Heading 9405 which are lamps connected to a fixed energy source i.e., AC/DC power source and illuminates when the switch is put on as it gets connected to the AC/DC power source. In the case of the impugned lamps, they are basically portable in nature, and it is connected to the AC power source only for recharging purpose and it is not permanently connected to the AC power, hence it is ineligible for classification under Chapter Heading 9405. Therefore, we find that the portable lamps with a rechargeable battery which can be recharged through AC power source would not get classified under electrical fittings covered under Chapter Heading 9405 and they are rightly classifiable as portable electrical lamps under Chapter Heading 8513, since the criteria for classification under this Chapter heading essentially being portable and having own power source which in case of impugned goods is satisfied. Therefore, the impugned rechargeable lantern, emergency lamps, study table lamps merit classification under Chapter Heading 8513 and they do not merit classification under Chapter Heading 9405 as claimed by the appellant.

18. In view of the above discussion the classification of the impugned goods as confirmed by the Revenue under Central Excise Tariff Heading (CETH) 8513 1090 is upheld.

19. As regards the confirmation of demand along with interest for the period prior to February 2011 we find that the Appellant had re-classified the impugned goods and the same was intimated to the Department vide their letter dated 30.04.2010. However, the Department had not raised any objection on the re-classification till the date of issuance of the Audit note on 07.12.2011 and the show cause notice was issued on 21.02.2012 for the period March 2010 to August 2011. The above said fact shows the bonafide of the Appellants for

claiming such re-classification. Further, the Appellants have been regularly filing the monthly ER-1 returns declaring the clearance of all products with description and the classification under which the product is cleared and the excise duty is paid or exemption is claimed. Thus, all the necessary facts relevant for the Department to make up its mind regarding the correct classification and eligibility to exemption of these products were in the knowledge of the Department. Hence, there is no suppression of facts for confirming demand by involving extended period of limitation. Further when the issue relates to a pure question of interpretation of the Tariff headings, as per the judgment of Hon'ble Supreme Court in the matter of **Densons Pultretaknik Vs. Commissioner of Central Excise, 2003 (155) E.L.T. 211 (S.C.),** it is settled that in a dispute prevailing around classification, the appellant cannot be charged with any suppression of facts. Further, the extended period of limitation cannot be invoked when the demand itself is based on the Audit objection as per the decision in the matter of **M/s. Kalyani Steels Ltd. Vs. Commissioner of Central Excise, Belgaum, 2024 (3) TMI 6-CESTAT BANGALORE**. Therefore, the confirmation of the demand along with interest and imposition of penalty under section 11AC for the period prior to February 2011, invoking the extended period is not sustainable, hence the demand for the period prior to February 2011 is set aside.

20. As regards the demand for the period, post February 2011, the demands along with the interest are sustainable, hence they are liable to be upheld. However, for the period May 2012 to September 2012 the demand was set aside vide Order-in-Original dated 25.10.2013. Further the imposition of penalties under section 11AC for the period post February 2011 under section 11 AC of the Central Excise Act, 1944 are unsustainable as there was no suppression by the appellant, since they informed the respondent about their adoption of changed classification vide letter dated 30.04.2010. Hence the impugned orders for the period post February 2011 to the extent of confirming differential duty along with interest are upheld and the penalties imposed are set aside.

21. In view of the above discussion the impugned order in Appeal No. E/22033/2014 is set aside and the impugned orders in Appeal Nos. E/20753/2017 and E/20754/2017 to the extent of demand of duty along with interest are upheld, however, the penalty imposed under section 11 AC of the Central Excise Act, 1944 is set aside.

22. Accordingly, the all the 3(three) appeals are disposed in the above terms.

(Order pronounced in Open Court on 29.04.2026)

(P. A. AUGUSTIAN)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

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