

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH – COURT No. I

Customs Appeal Nos. 40630 to 40634 of 2024

(Arising out of Order-in-Appeal C.Cus.II No. 463-467/2024 dated 16.05.2024 passed by Commissioner of Customs (Appeals-II), Custom House, No. 60, Rajaji Salai, Chennai – 600 001)

M/s. Suraj Constructions

1st Floor, No. 91, Fuso House,
Poonamalle High Road,
Chennai – 600 084.

...Appellant

Versus

Commissioner of Customs

Chennai II Commissionerate,
Custom House, No. 60,
Rajaji Salai,
Chennai – 600 001.

...Respondent

APPEARANCE:

For the Appellants : Ms. Swetha R.S., Advocate

For the Respondent : Mr. M. Selvakumar, Authorised Representative

CORAM:

HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER Nos. 40431-40435 /2025

DATE OF HEARING : 20.01.2025

DATE OF DECISION : 09.04.2025

Per Mr. VASA SESHAGIRI RAO

These five Customs Appeal Nos. C/40630-
40634/2024 have been filed by M/s. Suraj Constructions
being aggrieved by the Orders-in-Appeal No. 463-467/2024

dated 16.05.2024 passed by the Commissioner of Customs (Appeals-II), Chennai dismissing all the appeals filed by the Appellant. The issue involved is the correct classification of Clear Float Glass imported by the Appellant in all these appeals.

1.2 Brief facts emerging from these appeals are that the Appellant has been regularly importing "Clear Float Glass" (CFG) from Malaysia classifying them under CTH 7005 1090 and clearing the same @ Nil rate of BCD availing exemption under Notification No. 46/2011-Cus dated 01.06.2011 (Serial No. 934) as the Country of Origin of subject import goods is Malaysia, a country notified for the benefit of ASEAN India Free Trade Area (AIFTA). However, in respect of the following imports of clear float glass as tabulated below: -

Sl.No.	Appeal No.	File No.	Appellant's Name	BE No.	Date
1	C/46030/2024	C3/II/164/O/2023-Sea	Suraj Construction	3654677	08.12.2022
2	C/46031/2024	C3/II/165/O/2023-Sea	Suraj Construction	3796954	19.12.2022
3	C/46032/2024	C3/II/166/O/2023-Sea	Suraj Construction	4146436	12.01.2022
4	C/46033/2024	C3/II/167/O/2023-Sea	Suraj Construction	4112838	10.01.2022
5	C/46034/2024	C3/II/168/O/2023-Sea	Suraj Construction	3683062	10.12.2022

The Assessing Officer did not permit the appellant to file the bills of entry under CTH 7005 1090, as the Country of Origin certificate contained a different CTH. The appellant had explained that the goods imported by them are rightly

classifiable under CTH 7005 1090, as the said goods contain an absorbent layer. The appellant also requested for provisional assessment of the said goods, which was also not acceded to by the Assessing Officer. Therefore, left with no other option and to avoid demurrage and detention charges the appellant filed the above mentioned bills of entry under CTH 7005 2990. Further, the appellant have reportedly submitted a Letter dated 14.12.2022 as supporting documents while filing the said bills of entry, stating that the goods are correctly classifiable under CTH 7005 1090, and they were forced to classify the goods under CTH 7005 2990. The classification of the imported CFG was mentioned as CTH 70052990 instead of CTH 7005 1090, in the Country of Origin Certificate (COO). It appeared that the goods covered under CTH 70052990 were the ones which did not have an absorbent layer whereas the goods imported by the Appellant were having an absorbent layer and so classifiable under CTH 70051090. But, it appeared to the Department that the assessments were to be made in terms of the description in the COO certificate. Being aggrieved by the classification in the Bills of Entry and consequent denial of benefit of Notification No. 46/2011 dated 01.06.2011, appeals were filed before the lower appellate authority to get the assessment orders modified under Section 128 of the Customs Act, 1962 and to seek consequential refund. The

Lower Appellate authority rejected all the five appeals on the grounds that the appellant failed to provide any technical inputs and any substantive evidence to support their arguments nor register any protest before assessment of the goods. Being aggrieved, the Appellant has filed the subject appeals before this forum.

2. The Grounds of Appeal filed by the Appellant in respect of the Appeals have been specified below: -

- i. It was averred that the issue was already covered by the decision of the Hon'ble Tribunal in the case of *Bagreecha Enterprises Ltd. Vs. Commissioner of Customs, Kolkata in appeals C/75536-75538/20223 and C/40203/2023* wherein it was held that the presence of tin layer on the clear float glass was sufficient to classify the same under CTH 70051090.
- ii. It was submitted that the Appellants have been regularly importing Clear Float Glass with an absorbent layer which are classifiable under CTH 70051090 and eligible for NIL rate of BCD as per sl.no.934 of Notification no.46/2011 dated 01.06.2011.
- iii. It was submitted that the imported goods were rightly classifiable under CTH 70051090. In this regard the

relevant classifications of Float Glass in the Customs

Tariff were adverted to as under: -

7005	FLOAT GLASS AND SURFACE GROUND OR POLISHED GLASS, IN SHEETS, WHETHER OR NOT HAVING AN ABSORBENT, REFLECTING OR NON- REFLECTING LAYER, BUT NOT OTHERWISE WORKED				
7005 10	- <i>Non-wired glass, having an absorbent, reflecting or non-reflecting layer :</i>				
7005 10 10	--- Tinted	m ²	10%	-	
7005 10 90	--- Other	m ²	10%	-	
	- <i>Other non-wired glass :</i>				
7005 21	-- <i>Coloured throughout the mass (body tinted) opacified, flashed or merely surface ground :</i>				
7005 21 10	--- Tinted	m ²	10%	-	
7005 21 90	--- Other	m ²	10%	-	
7005 29	-- <i>Other :</i>				
7005 29 10	--- Tinted	m ²	10%	-	
7005 29 90	--- Other	m ²	10%	-	
7005 30	- <i>Wired glass :</i>				
7005 30 10	--- Tinted	m ²	10%	-	
7005 30 90	--- Other	m ²	10%	-	

and it was submitted that CFG having an absorbent layer and non-tinted are classifiable under CTH 7005 1090. It was submitted that CTH 700510 at six- digit level covered non-wired glass having an absorbent, reflecting or non-reflecting layer and is further sub- divided into two headings at eight-digit level, one covering tinted variety under CTH 70051010 and other varieties under heading 70051090. It was submitted that as far as absorbent layer was concerned, in terms of Note 2(c) to Chapter 70, the tariff itself explained

what an absorbent, reflecting or non-reflecting layer means, as mentioned below:-

"Chapter Note 2(c) to chapter 70 reads as follows:-

"2. For the purposes of headings 7003, 7004 and 7005 :

(a) glass is not regarded as "worked" by reason of any process it has undergone before annealing ;

(b) cutting to shape does not affect the classification of glass in sheets ;

(c) the expression "absorbent, reflecting or non-reflecting layer" means a microscopically thin coating of metal or of a chemical compound (for example, metal oxide) which absorbs, for example, infra-red light or improves the reflecting qualities of the glass while still allowing it to retain a degree of transparency or translucency; or which prevents light from being reflected on the surface of the glass."

- iv. It was submitted that in respect of import of identical goods imported earlier by the Appellants, the Central Glass and Ceramic Institute (CGCRI), CSIR- Kolkata *vide* their test report dated 02.02.2022 mentioned that the tin layer is UV absorbent. It was pointed out that the crucial question was whether the product had an absorbent layer and the answer to this question is in the affirmative which is backed by the opinion of CSIR, Central Glass & Ceramic Research Institute, Kolkata.
- v. It was submitted that the investigation as to whether float glass could be manufactured without tin bath or

not is beyond the scope of the present case because articles other than float glass was also covered under CTH 7005.

- vi. It was averred that the decisions of the higher forums should be followed by lower authorities unless it's operation has been suspended by a Competent court. By referring to Paragraph 11 of the impugned order wherein it was mentioned that the Tribunal, Kolkata did not consider certain factors in the case of *Bagreecha Enterprises Ltd. Vs Commissioner of Customs, Kolkata (Order dated 03.11.2023 passed in C/75536-75538/2023)*, it was averred that the principle of judicial discipline requires the lower authorities to follow the decisions of the higher forums and subordinate courts are bound to follow the judgements unless there be a subsequent judgement by a higher court which had taken a different view other than the earlier view expressed. In this regard, the Appellant relied upon the decision in the case of *Tata Motors Ltd. Vs Union of India [2009 (244) ELT 337 (Bom.)]* and Hon'ble Supreme Court decision in the case of *Kamalakshi Finance Corporation Ltd. [1991 (55) ELT 433 (SC)]*.
- vii. It was submitted that on a similar issue which came up for consideration before the Commissioner of

Customs (Appeals), New Delhi in the case of M/s. Asahi India Glass Limited, it was held *vide* Order-in Appeal No. 861-863/2022-23 dated 20.07.2022 that the subject goods merit classification under CTH 70051090 as the goods have an absorbent (Tin) layer on one side and consequently extended the benefit under Notification No. 46/2011-Cus. dated 01.06.2011.

viii. It was submitted that on identical issues pertaining to classification of CFG, the Commissioner of Customs (Appeals) *vide* the Orders-in-Appeals No. CUS-000-APP-400-22-23 and CUS-000-APP-400-22-23 both dated 09.03.2023 had upheld the classification of goods under CTH 70051090 and had extended the benefit of Notification No. 46/2011-Cus dated 01.06.2011 (Serial No. 934).

ix. It was pointed out that in identical cases, the Customs Authority for Advance Ruling, Mumbai *vide* ruling Nos. CAAR/MUM/ARC/10/2022 dated 10.05.2022 in the case of M/s. Suraj Constructions and CAAR/MUM/ARC/36/2021 dated 24.09.2021 in the case of M/s Chandrakala Associates, held that the Clear Float Glass with absorbent layer on one side would merit classification under heading 7005 and more specifically under CTH 70051090, irrespective of the tariff heading mentioned in the Country of Origin Certificate (COO)

and hence it was averred that the reliance placed by the assessing officer on the Classification mentioned in the COO is not legally relevant for determining the classification of impugned imports.

- x. It was averred that identical goods manufactured by domestic manufacturers viz., Saint Gobain and others classified the goods under CTH 7005 10 90 and assessed accordingly on the basis of absorbent layer on one side. It was also pointed out that the majority of imports into India having absorbent layer have been correctly classified under CTH 70051090 as per data available on various web sites.
- xi. It was submitted that the entire allegation of misclassification was based on an audit para (DAP 83 of audit report No.17/2020) in respect of CFG imports and in this regard reference was invited to Para 5 of Circular No. 1023/11/2016-CX dated 08.04.2016 issued by the Central Board of Excise and Customs (CBEC) as per which the adjudication of admitted DAP/AP's should be undertaken after ensuring that the reply given by the Ministry (CBEC) is available on record and in the instant case no such reply was made available on record. In this connection, it was further submitted that the Appellant had applied for and sought for the Ministry's Action Taken Note on the said audit para by

way of information sought under RTI ACT and perusal of the same revealed that the Ministry had replied in detail legally justifying the classification of CFG under CTH 70051090 as tabulated below:-

Verification comments on Ministry's Action Taken Note on Audit Para No. 4.10.1 (DAP 83) Audit Report No.17 of 2020

Sl. No	Audit Para No. and subject.	Gist of Para	Ministry's ATN	Remarks/comments of CRA Kochi
1	4.10.1 Clear Float Glass misclassified as 'non wired glass'.	4.10.1 Clear float glass misclassified as 'non wired glass'. Clear float glass is transparent and offers high visible light transmittance. It does not have any absorbent, reflective layer and is classifiable under CTH 70052990 as 'Other non-wired glass' attracting BCD at the rate of 5 per cent (notification no.46/2011-cus, Sl.no.935) when imported from ASEAN countries. M/s 'K' Enterprises Limited and 19 other firms imported (April 2017 to March 2018) 'float glass' (249 BsE) through Chennai (Sea) and Kochi (Sea) Commissionerates. The imported goods were misclassified under CTH 70051090 and exempted from BCD. This resulted in non-levy of duty amounting to 4.34 crore. Audit noticed that the imported goods were clear and not coated with any absorbent, reflective or non-reflecting layer, accordingly merit classification under CTH 70052990 and BCD was leviable at 5 per cent in terms of aforesaid	Please refer to your office letter No. 29/ Ind Tax/Customs/136-2019 dated 31.01.2022 on the above cited subject. In this regard it is to submit that the Audit objection is based on the proposition that the "absorbent, reflecting or non-reflecting layer" mentioned in Chapter notes 2(c) of Chapter 70 of the Customs tariff is distinct from the Tin layer found in the floating glass and that coating of glass is a process whereby metal oxides are sprayed in the form of thin coatings; that it modifies the behaviour of the glass with respect to solar radiation, visibility and reflection of light; that different types of technology and process are involved in coating of glass according to the purpose for which the glass is used and is a class apart from clear float glass. Classification of goods in the first schedule - import tariff is governed by the general rules of interpretation (GRI) and general explanatory notes thereof. As per Rule1 of GRI, "for legal purpose, classification shall be determined according to the terms of the headings and any relative section or chapter notes." As	<i>The Ministry's reply examined and the following remarks are offered.</i> As stated by the Ministry, as per Rule 1 of GRI, for legal purpose, classification shall be determined according to the terms of the headings and any relative section or <i>chapter notes</i>. Chapter note 2 (c) under Chapter 70 states as follows: "<i>the expression "absorbent, reflecting or non-reflecting layer" means a microscopically thin coating of metal or of a chemical compound (for example, metal oxide) which absorbs, for example, infra-red light or improves the reflecting qualities of the glass while still allowing it to retain a degree of transparency or translucency; or which prevents light from being reflected on the surface of the glass</i>". The purpose of the above Chapter Note indicates the intention of the legislature to bring clarity as to the type of glass covered by the term 'absorbent, reflecting or non-reflecting layer' and the purpose for which such type of glass is used, ie., <i>which absorbs, for example, infra-red light or improves the reflecting qualities of</i>

	notification. On this being pointed out (July/ August 2018), the Customs authorities, Cochin stated (September 2019) that I/36202/2021 the composition of the glasses was soda lime silica based glass containing other minor components. The glass surfaces are not polished, not tinted, non-wired and not specified. The Department further stated that test results of imports indicate that "An absorbent Layer of Tin" was observed on one side of the glass which is fluorescent under UV illumination". Accordingly, in view of the test result, the imported goods are clear float glass and correctly classified under CTH 70051090. The reply of the Department was not acceptable because:- (a) The manufacturing process of float glass involves floating molten glass to the mirror-like surface of molten tin, starting at 1,100 degree Celsius leaving the float bath as a solid ribbon at 600 degree Celsius on a bed of molten tin which inevitably introduces tin by thermal diffusion into one side of the glass. The glass so manufactured is clear float glass, one side of which is known as the	per GRI 6, for legal purposes, the classification of goods in sub-headings of a heading shall be determined according to the terms of those sub-headings and any related subheading notes..."The terms of heading 7005 read as "float glass and surface ground or polished glass in sheets, whether or not having an absorbent, reflecting or non reflecting layer but not otherwise worked". The sub-heading 7005 10 read as "non-wired glass, having an absorbent, reflecting or non reflecting layer". The tariff item 7005 1010 denotes "tinted" and 7005 1090 denotes "other" whereas the Customs tariff item 7005 2990 denotes "Other" in the "Other" category of "other non-wired glass. The subject goods are declared as "clear float glass" and the relevant CGCRI report states that the glass is a non-wired float glass and that an absorbent layer (tin) is observed on one side of the glass which is fluorescent under UV illumination". On conjoint reading of the report vis a vis the chapter notes and terms of the sub heading 7005 10 and GRI, it can be seen that the goods are rightly classifiable under the customs tariff item of 7005 1090. Moreover Rule 3(a) of the GRI states that the heading which provides the most specific description shall be preferred to headings providing a more general description. It is pertinent to note that	<i>the glass while still allowing it to retain a degree of transparency or translucency; or which prevents light from being reflected on the surface of the glass</i>" as a result of coating applied with metal or chemical compound. Audit is in agreement with the case law quoted by the Ministry which ruled that "in classifying the product, the scientific and technical meaning is not to be resorted to and that the product must be classified according to the popular meaning attached to it by those using the product" The popular meaning attached to the product "Clear float glass" does not covers glass which is subject to coating as specified in the Chapter note. Clear float glass means "CLEAR" as understood by those using the product and not COATED. Whereas the popular meaning of Glass which is coated as specified in the Chapter note is generally understood by those using the product as "coated glass". (i) The department has not disputed the fact that the item description in the Bills of Entry mentioned in the TA
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	tin side and other side as the air side. All glass manufactured under float process, (clear, coated or tinted) invariably would contain a layer of tin on one side, which does not mean that all float glass is to be classified under 70051090. (b) Further, test reports also revealed that the glasses are neither "tinted" nor "wired". Hence, the possibility of classifying the glasses under CTH 70052110 (meant for tinted) or under CTH 70053010 (wired glass) was also ruled out. Therefore, the imported goods merit classification under CTH 70052990 - "Others" and attract BCD at the rate of 5 per cent. Apart from test checked cases, analysis of data (2017- 18) revealed that in another 592 imports of "Clear float glass" made through 27 Customs Ports, BCD was exempted instead of applicable rate of five per cent. The duty involved was 13.39 crore. CBIC may examine these cases and take corrective action. The matter was referred to the Ministry in August 2020, their response was awaited (September 2020).	neither the chapter notes to Chapter 70 of the Customs Tariff nor the explanatory notes issued by the World Customs Organization stipulate any specific process for the production of the coating nor it excludes per se the absorbent layer of Tin as reported in the test report of CGCRI, from the scope of the "microscopically thin coating of metal or of a chemical compound...". The wordings used in the relevant sub-heading is "non-wired glass, having an absorbent, reflecting or non-reflecting layer". The chapter notes or the explanatory notes referred above has not given any clarification on the coating process. Moreover, Supreme Court of India in Dabur (India) Ltd., Vs Commissioner of Central Excise, Jamshedpur (2005) (182) ELT 290 (SC) & Commissioner of Central Excise, Nagpur Vs Vicco Laboratories has ruled that in classifying the product, the scientific and technical meaning is not to be resorted to and that the product must be classified according to the popular meaning attached to it by those using the product. The audit has not given any source or details of the methodology adopted by them for arriving at the conclusion that the absorbent layer of Tin is excluded from the ambit of "microscopically thin coating	Memos were "Clear float glass" and not "Float glass having an absorbent reflecting or non-reflecting layer" or "coated glass". The presence of absorbent, reflecting or non-reflecting layer on the 'clear float glass' imported was not examined by the Department at the time of assessment nor was any test report produced along with the import documents to prove that the glass imported contained any absorbent reflecting or non-reflecting layer. In the absence of such documentary evidence it is not known how the Department concluded that the goods imported declaring as "clear float glass" contained any absorbent reflecting or non-reflecting layer and allowed clearance classifying under CTH 70051090 without considering the Chapter note 2(c). (ii) As stated by the Ministry "Rule 3(a) of the GRI states that the heading which provides the most specific description shall be preferred to headings providing a more general description". The sub-heading 7005 10 is specific to glass having an 'absorbent, reflecting or non-reflecting layer'. Whereas the item description of the imported glass is "clear float glass". In the absence of any documentary
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			of metal or of a chemical compound..." as given in Chapter notes 2 (c) of Chapter 70 of the Customs tariff and also the process of coating of glass as detailed in (ii) ibid. In the absence of such scientific or legal background and also on the basis of the test results of identical goods, the objection raised by the audit is unsustainable. In view of the above, Audit Para may kindly be considered for closure.	evidence regarding the presence of "absorbent, reflecting or non-reflecting layer" on the imported glass at the time of permitting clearance, the imported "clear float glass" was rightly classifiable under 7005 29 90. (iii) The test report of CGCRI which was produced subsequently was not in respect of "clear float glass" imported against the Bills of Entry in respect of which Audit has issued TA Memos. Hence the same cannot be relied upon to conclude that all clear float glass imported and cleared earlier also contained "an absorbent, reflecting or non-reflecting layer". Considering the above facts, reply of the Ministry is not acceptable and requires re-consideration.
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xii. It was disputed that the impugned order without considering the case laws, advance rulings, action taken note and reply by the Appellant, had proceeded to confirm the classification of the imported CFG under CTH 70052990 thereby ignoring Para 5.3 of the Circular No. 1023/11/2016-CX dated 08.04.2016 which mandated that the quasi-judicial proceedings was legally bound to independently and judiciously adjudicate by taking into consideration the audit objections by CRA/ reply of the department, reply of the party, relevant legal provisions, extant case laws and relevant circulars of the CBEC. It was averred that it is the onus of the department to prove and establish the classification of the product, in case, the Department confronts a classification claimed by the

Appellant and in this regard the Appellant relied on the ratio of the decision in the cases of *Hindustan Ferrodo Ltd. [1997 (89) ELT 16 (SC)]*, *Collector of Central Excise Vs. Calcutta Steel Industries and Others [1989 (39) ELT 175 (SC)]*, *Parle Agro (P) Ltd. Vs. Commissioner of Commercial Taxes, Trivandrum [2017 (352) ELT 113 (SC)]* and *Puma Ayurvedic Herbal (P) Ltd. Vs. Commissioner of Central Excise, Nagpur [2006 (196) ELT 3 (SC)]*.

xiii. It was submitted that the representative of the Appellant had filed an application dated 20.06.2023 with M/s. Central Glass and Ceramic Research Institute (CGCRI), Kolkata in which one of the queries pertained to whether the reports given by the said institute is relating to the existence of observant tin layer on one side of the CFG and the institute *vide* their reply dated 17.07.2023 clarified that the float glass tested by them contain an absorbent tin layer on one side which meant that the CFG had an absorbent and non-reflective layer.

3.1 The Ld. Counsel Ms. R.S. Swetha representing the Appellant recapitulated the averments in the grounds of appeals and further submitted that the issue involved in the

appeal was already covered by the decisions of the Tribunal in the following cases:

- i. *Bagreecha Industries Limited Vs. Commissioner of Customs (Port), Kolkata [Final Order Nos. 77460-77462/2023 dated 03.11.2023]* passed in Customs Appeal Nos. C/75536-75538/2023 wherein the Tribunal had held that the presence of tin layer on the CFG is sufficient to classify the same under CTH 70051090 and also covered by the decision of Tribunal Chennai in the case of the same appellant in Final Order No. 40352/2024 dated 27.03.2024 passed in Customs Appeal No. 40203 of 2023.
- ii. *M/s. Rider Glass Industries Pvt. Ltd. Vs Commissioner of Customs, Chennai vide Final Order no.40958/2024 dated 23.07.2024.*
- iii. *M/s. Enviro Safety Glass Vs. Commissioner of Customs, Audit, Chennai vide Final Order No. 40957/2024 dated 23.07.2024.*
- iv. *Float Glass Centre Vs. Commissioner of Customs, Chennai vide Final Order Nos. 40876-40908/ 2024 dated 18.07.2024.*
- v. *M/s. Navakar Impex Pvt. Ltd. Vs. Commissioner of Customs, Chennai (Order dated 24.07.2024 in C/40514/2023).*

3.2 Further, it was submitted that the Hon'ble Apex Court in the case of *Commissioner of Central Excise, Bhopal vs. Minwood Rock Fibres Ltd. [2012 (278) ELT 581 (SC)]* had held that when there were two conflicting entries in a classification dispute, then an entry which is beneficial to the Assessee requires to be applied. Further, the Counsel has pointed out that the Hon'ble Apex Court in the case of *STP Limited [1998 (97) ELT 16 (SC)]* held that if there is any dispute in the construction of any provision of a taxing statute, that doubt must be resolved in favour of the Assessee.

3.3 The Ld. Counsel submitted that the general Rules of Interpretation has precedence over the Country of Origin Certificate and hence reliance placed on the classification mentioned in the COO is not legally sustainable.

3.4 It was submitted that the Circular No. 23/2024-Customs dated 14.11.2024 regarding classification of clear float glass holds no merit as it is a settled principle of law that judicial precedents override Department's circulars.

3.5 In view of the submissions and relied upon case laws, the Counsel prayed to dismiss the impugned order.

4.1 The Ld. Authorized Representative Shri M. Selvakumar representing the Department affirmed the findings of the lower Appellate Authority. It was stressed that the primary condition for classifying the imported CFG under CTH 70051090 was not satisfied. He has submitted that if the tin layer is treated as the absorbent layer which is inherent in the manufacturing process of every float glass, the words “whether or not having an absorbent, reflecting or non-reflecting layer” will become redundant. He has contended that it is not legal to interpret the tin layer itself as an absorbent layer, which is automatically formed in the manufacture process of every float glass. The words “whether or not” used in the heading becomes redundant and such interpretation is not correct as settled by various case laws viz., *Rao Shiv Bhadr Singh Vs. The State of VP* [AIR 1953, SC 394] and *Shri Balaganesan Metals Vs. Shri M.N. Shanmugham Chetty & Others* [AIR 1987 SC 1668]. He has further submitted that the Commissioner of Customs (Port), Kolkata has filed a Civil Appeal No. 28721/2024 before the Hon’ble Apex Court challenging the decision of the Kolkata Tribunal in the case of *Bagrecha Enterprises Ltd.* wherein though the stay petition filed by the Department was dismissed, a notice was issued on the Department’s application seeking condonation of delay.

4.2 He has supported the findings of the lower Appellate Authority and prayed for setting aside the appeals, in view of the clear findings recorded in the impugned Order.

5. Heard both sides and carefully considered the submissions and evidences on record.

6. The issues which arise for decision in these appeals are:-

- i. Whether the imported Clear Float Glass by the appellant in these five appeals is correctly classifiable under CTH 70051090 as contended by the appellant or under CTH 70052990 as classified / assessed by the Department? and,
- ii. Whether the Appellant is eligible for FTA benefit under Sl. No. 934 of Notification No. 46/2011-Cus dated 01.06.2011?

7. We find that the Ld. Counsel for the appellant argued that they have regularly importing Clear Float Glass from Malaysia through Chennai Seaport by declaring the classification under CTH 7005 1090 and availing FTA benefit under Sl. No. 934 of Notification No. 46/2011-CUS dated 01.06.2011 by furnishing the required Certificate of Origin (COO) in terms of Customs Tariff (Determination of Origin of

Goods Under the Preferential Trade Agreement Between the Government Of Member States of ASEAN and Republic of India) Rules, 2009. It appears that in respect of these five appeals when the importer has sought classification of the goods under CTH 70051090, the authorities have not allowed the appellants to adopt the above said classification or request for provisional assessment. In order to avoid detention and demurrage charges, the appellants filed the above five Bills of Entry adopting the classification under CTH 70052990 as mentioned in the COO Certificate but have filed these appeals before the Lower Appellate Authority which were rejected. The Department, based on an earlier audit objection and the description of goods mentioned in COO, rejected the classification declared by the Appellant and re-classified the imported goods under CTH 70052990 denying the benefit of Notification cited supra.

8. We notice that these proceedings were initiated as a result of CAG's audit objection and CBEC had replied in detail legally justifying the classification of CFG under CTH 70051090. As the Department itself was of the view that the CFG is rightly classifiable under CTH 70051090, the action initiated by the Department appears to be contrary to its earlier stance maintained before the CAG.

9. It has been argued that the only requirement for CFG to get classified under 70051090 is that the CFG shall have an absorbent reflecting or non-reflecting layer, which is undisputedly present in the instant case and the same, is evidenced by test reports issued by the notified Government Agency *viz.*, CSIR-CGCRI. Further, a reference was made to an RTI application addressed to CSIR wherein it was clarified that all the float glasses tested for Customs by them has a tin layer on one side of the float glass which is absorbent and non-reflective as per the test report of the said Agency.

10. We find that the issue of classification of CFG is no more *res integra* since the issue and identical arguments submitted by litigants were already elaborately dealt with in the Orders of the Kolkata Tribunal *vide* [Final Order Nos. 77460-77462/2023 dated 03.11.2023] and Chennai Tribunal *vide* [Final Order No. 40352/2024] in the case of M/s. Bagrecha Enterprises Ltd. Vs. Commissioner of Custom, Chennai wherein it was held that the Clear Float Glass is more appropriately classifiable under CTH 7005 1090 of the Customs Tariff Act, 1975 and the relevant paras have been reproduced below for the sake of convenience:-

"9.1 Before proceeding to determine the appropriate classification of imported CFG, it would be relevant to reproduce rival tariff entries with the relevant Chapter Note as follows:-

7005		FLOAT GLASS AND SURFACE GROUND OR POLISHED GLASS, IN SHEETS, WHETHER OR NOT HAVING AN ABSORBENT, REFLECTING OR NON- REFLECTING LAYER, BUT NOT OTHERWISE WORKED			
7005 10	-	<i>Non-wired glass, having an absorbent, reflecting or non-reflecting layer :</i>			
7005 10 10	-	Tinted	m	1	-
	-		2	0	
	-			%	
7005 10 90		Other	m	1	-
		<i>Other non-wired glass :</i>	2	0	
		<i>Coloured throughout the mass (body tinted)</i>		%	
7005 21	-				
	-				
	-	<i>opacified, flashed or merely surface ground :</i>	m	1	-
7005 21 10	-	Tinted	2	0	
	-			%	
7005 21 90	-	Other	m	1	-
	-		2	0	
	-			%	
7005 29	-	<i>Other :</i>			
	-				
7005 29 10	-	Tinted	m	1	-
	-		2	0	
	-			%	
7005 29 90	-	Other	m	1	-
	-		2	0	
	-			%	
7005 30	-	<i>Wired glass :</i>			
7005 30 10	-	Tinted	m	1	-
	-		2	0	
	-			%	
7005 30 90	-	Other	m	1	-
	-		2	0	
	-			%	

Chapter Note 2(c) to chapter 70 read as follows:-

- "2. For the purposes of headings 7003, 7004 and 7005 :
- (a) glass is not regarded as "worked" by reason of any process it has undergone before annealing ;
- (b) cutting to shape does not affect the classification of glass in sheets ;
- (c) the expression "absorbent, reflecting or non-reflecting layer" means a microscopically thin coating of metal or of a chemical compound (for example, metal oxide) which absorbs, for example, infra-red light or improves the reflecting qualities of the glass while still allowing it to retain a degree of transparency or translucency; or which

prevents light from being reflected on the surface of the glass."

9.2 It is evident from the manufacturing process that the CFG manufactured as above has a microscopically thin coating of metal layer, namely TIN on one side of the CFG, which is known as "Tin Side". Further it is an undisputed fact in this proceeding that the imported CFG are non-wired and non-tinted. This leaves us to ascertain whether such microscopically thin Tin Coating appearing on the TIN side is an absorbent, reflecting or non- reflecting layer to get classified under Tariff item 7005 1090.

9.3 It is already on record that the Department have drawn samples and tested the same with the Government notified laboratory namely CSIR-CGCRI, Kolkata which had reported that the imported CFG sample is having a microscopically thin coating of Metal, namely TIN, and it is an absorbent/non-reflective layer. This fact is also not in dispute in this proceeding. However, the SCN alleges that such absorbent reflective tin layer present in the CFG is obtained by natural phenomena during the manufacturing process and not by way of a separate coating process after manufacture of CFG and hence, the imported CFG would not merit classification under tariff item 70051090. The Ld. Adjudicating Authority has confirmed the above proposition in the impugned order.

9.4 But, the Ld. Advocate argued that as per CTH 7005 to get classified under Chapter Heading 70051090 of CTA, CFG shall be a non-wired glass, having an absorbent, reflecting or non-reflecting layer of metal. The imported CFG is non-wired is not in dispute. Entire dispute centres around whether the imported goods are having an absorbent layer or not in terms of Chapter

Note 2(c) of Chapter 70 of the Customs Tariff Act, 1975. As per Chapter Note 2(c) of Chapter 70 what needs to be demonstrated is that the CFG has a "microscopically thin coating of metal or of a chemical compound (for example, metal oxide) which absorbs, for example, infra-red light or improves the reflecting qualities of the glass while still allowing it to retain a degree of transparency or translucency; or which prevents light from being reflected on the surface of the glass."

9.5 The Ld. Advocate has further submitted that it is evident from the manufacturing process explained above as well as the test report referred above, that the CFG is having a microscopically layer of metal, namely tin, which is an absorbent/non-reflective layer as contemplated in the above referred Chapter note, and it was an admitted fact in Paragraphs 11 and 12 of the Show Cause Notice.

9.6 It was further contended that though the Ld. Adjudicating Authority accepts that CFG has an absorbent layer of tin on one side, he proceeds to give a finding that such layer of tin is not the result of applying any coating on the CFG but of a natural phenomena in the manufacture of CFG which inevitably introduces tin by thermal diffusion into one side of the glass. In other words, the Ld. Adjudicating Authority tosses the audit objection of CRA that the absorbent reflecting or non-reflecting layer is available only on the tin side of the CFG and not on the air side of the CFG.

9.7 The advocate would submit that, neither the tariff heading nor the Chapter Note warrants nor mandates that the absorbent reflecting or non-reflecting layer shall be on which side of the CFG. In other words, the only requirement for CFG to get classified under 70051090 is that the CFG shall have an

absorbent reflecting or non-reflecting layer, which is undisputedly present in the instant case and the same, is evidenced by test reports issued by the notified Government Agency viz., CSIR-CGCRI as many as more than 40 test reports pertaining CFG imports through various Custom Houses. Further, the Ld. Advocate referred to an RTI application made to CSIR wherein it was clarified that all the float glasses tested for Customs by them since 2017 till 17.07.2023 has a tin layer on one side of the float glass which is absorbent and non-reflective. [CSIR-Central Glass and Ceramic Research Institute's letter dated 17.07.2023. (Page No. 43 of Synopsis filed)]

9.8 He also submitted that, identical goods manufactured by domestic manufacturers viz., Saint Gobain have also classified the goods under CTH 7005 1090 and assessed accordingly both for domestic clearances and exports.

9.9 We find that Department's insistence of absorbent layer to be only on the air side for its classification under CTH 70051090 was vehemently contested by the counsels for the appellant and they submitted that, neither the tariff heading nor the chapter note provides for a requirement of such coating on any prescribed side and instead, on a plain reading of the tariff entry and the chapter Note 2(c) would only envisage that the CFG should have an absorbent, reflective or non-reflective thin microscopical layer for the purpose of classification under tariff item 70051090, which is very much present and remains undisputed. It was submitted that it is not permitted for the Ld. Adjudicating Authority to add or amend either tariff or chapter notes, to suit revenue's benefit. The above contentions are convincing as in matters of classification, a simplicitor and straight forward approach is paramount unless there is an anomaly.

10. We also note that in the appellant's own case on the very same issue, the co-ordinate bench of this Tribunal at Calcutta vide their Final Order No. 77460-77462/2023 reported in [2023 (11) TMI 485 CESTAT KOLKATA] has held that the CFG is rightly classifiable under tariff item 7005 1090. The relevant Paragraphs read as follows:-

"16. We find that there is no dispute that the impugned goods is non-wired glass. By conjoint reading of the above note 2(c) and the manufacturing process, it can be inferred that CFG would have microscopical layer of metal, namely tin, which is an absorbent layer as contemplated under the above said Chapter Note 2(c). Hence, the correct classification of the impugned goods is under CTH 7005 1090 of Customs Tariff Act.

17. We further find that the manufacturers in India of the identical goods namely M/s. Saint-Gobain India Pvt. Ltd., M/s. Goldplus Float Glass are manufacturing and clearing CFG under CTH 70051090 of the CTA and the same has been accepted by the department.

18. We further find that the impugned proceedings were initiated against the appellant on the basis of Audit Para holding that the Float Glass invariably a layer of Tin on one side, which does not mean that all Float Glass to be classifiable under 7009 1090.

19. We find that the appellant sought reply under RTI dated 17.07.2023, wherein the question was raised that it is observed that in some of the Report, no other layer other than Tin layer is found on one side of the Glass which is fluorescent is mentioned. Whether such layers are reflective or notreflective and whether such layers are absorbent or not? The reply is given as (a) not-reflective and (b) absorbent (UV).

20. If the same is considered then the said clarification is satisfying the Chapter Note 2(c) of Chapter 70 of the

Customs Tariff Act and the said Report has not been relied upon by the adjudicating authority while adjudicating the case. Therefore, the impugned order is bad in law.

21. We further take note of the fact that in the case of M/s. Suraj Constructions (supra), the Advance Ruling Authority has examined the issue and observed as under:-

"7. I have considered all the materials placed before me for the subject goods. I have gone through the submissions made by the applicant during personal hearing and the comments of the jurisdictional Principal Commissioner/Commissioner of Customs, on the impugned subject matter. The subject goods for which advance ruling has been sought, their characteristics, manufacturing process, utility etc. are already mentioned in the aforementioned paras. The subject goods are clear float glass, with an absorbent layer, which is fluorescent under UV illumination. The subject goods are not wired, tinted or green in colour. The heading 7005 10 covers non-wired glasses having an absorbent, reflecting or non-reflecting layer and the headings 7005 21 to 7005 29 deal with non-wired glasses which are tinted having absorbent layer, opacified, flashed etc. Therefore, the subject goods are appropriately covered under sub-heading 7005 1090. Based on the applicant's submission about the country of origin and the manufacturer of the subject goods, benefits under sr.no.934 of the table annexed to the exemption notification no.46/2011-Cus., dated 01.06.2011, would be available, subject to the condition that in respect of each case of import, the applicant would have to produce evidence before the Deputy/Assistant Commissioner of Customs as to the origin of subject goods.

8. On the issue of whether the benefit of the said exemption would be available even if the sub-heading

mentioned in the COO differs for 70051090, the applicant & their authorized representative were asked to explain the context of the said question. It appears that the subject goods are being exported from Malaysia under its code 70052990. The applicant has submitted a copy of the letter ref. no.MITI.700-2/26 Jld.6(38) dated 30.04.2021 from the Director of Trade and Industry Cooperation, Ministry of International Trade and Industry (MITI, hereinafter), stating that they had been requesting the clear float glass exporters to provide an advance ruling/document of the Government of India or from Royal Malaysian Customs confirming the correct HS code. It appears that M/s. Kibing Group (M) Sdn. Bhd. has obtained a letter from the Royal Malaysian Customs dated 12.03.2021 confirming the classification of clear float glass under HS code 7005.10.09, and therefore, MITI has allowed KGM to apply for a COO with exporting and importing HS code of 70051090. This letter goes on to state that unless M/s. Xinyi produces a similar document, their application with different exporting and importing tariff code cannot be approved."

22. Further, in the case of M/s. Chandrakala Associates (supra), again the Advance Ruling Authority has examined the issue and observed as under:-

"10. I have considered all the materials placed before me for the subject goods. I have gone through the submissions made by the applicant during personal hearing. In the absence of any comment from the jurisdictional Principal Commissioner/Commissioner of Customs, on the impugned subject matter, I proceed to render an advance ruling based on materials available on record. The subject goods for which advance ruling has been sought, their characteristics, manufacturing process, utility etc. are already mentioned in the

aforementioned paras. The subject goods are clear float glass, with an absorbent layer, which is fluorescent under UV illumination. The subject goods are not wired, not tinted or not green in colour. The heading 7005 10 covers nonwired glasses having an absorbent, reflecting or non-reflecting layer and the headings 7005 21 to 7005 29 deal with non-wired glasses which are body tinted, opacified, flashed etc. Therefore, the subject goods should more appropriately be covered under sub-heading 7005 1090. While prima facie, based on the applicant's submission about the country of origin and the manufacturer of the subject goods, exemption notification no.46/2011-Cus., dated 01.06.2011, appears to be available, in terms of the said notification, in each case of import the applicant would have to produce evidence before the Deputy/Assistant Commissioner of Customs to substantiate the origin of subject goods.

11. In view of the above discussions, I hold that the subject goods 'Clear Float Glass' having an absorbent layer merit classification under heading 70.05 and more specifically, under subheading 70051090 of the first schedule to the Customs Tariff Act, 1975. The said imports shall also be governed by the provisions of Notification No.37/2020- Customs (ADD), dated 11.11.2020. The benefit of exemption notification no.46/2011, dated 01.06.2011 would be determined in accordance with conditions laid down in the said notification."

23. Further, the Ld. Commissioner (Appeals) in the case of M/s. Asahi India Glass Limited (supra) has examined the issue and observed as under:-

"5.4 Now coming to merits of issue, the contesting entries viz 70051010 (as declared by the appellant) and

70052110 (as per the assessing Authority) from the Customs Tariff are reproduced below:-

Upto 31.12.2019

<i>7005</i>	<i>Float glass and surface ground or polished glass, in sheets, whether or not having an absorbent, reflecting or non-reflecting layer, but not otherwise worked.</i>
<i>700510</i>	<i>-Non-wired glass, having an absorbent, reflecting or non-reflecting layer.</i>
<i>70051010</i>	<i>--- Tinted</i>
<i>70051090</i>	<i>--- Other</i>
	<i>- Other non-wired glass;</i>
<i>700521</i>	<i>-- Coloured throughout the mass (body tinted) opacified, flashed or merely surface ground:</i>
<i>70052110</i>	<i>--- Tinted.</i>

It is pertinent to mention that w.e.f. 01.01.2020 (as amended vide Finance Act, 2019 and made applicable as per Notfn.89/2019-Cus (N.T.), dated 10.10.2019), the sub-heading 700521 was amended to read as under:-

"....Coloured throughout the mass (body tinted), opacified, flashed or merely surface ground."

Thus, specifically a comma was inserted in the said sub-heading. The said amendment was not given retrospective effect.

5.4.1 Chapter Note 2 of chapter 70 is reproduced below
–

"2. For the purposes of headings 7003, 7004 and 7005:

(a)

(b)

(c) The expression "absorbent, reflecting or non-reflecting layer" means a microscopically thin coating of

metal or of a chemical compound (for example, metal oxide) which absorbs, for example, infra-red light or improves the reflecting qualities of the glass while still allowing it to retain a degree of transparency or translucency; or which prevents light from being reflected on the surface of the glass."

5.4.3 A Plain reading of CTH 7005 would reveal that 700510 covers non-wired glass having absorbent, reflecting or non-reflecting layer. A clear conclusion is that single clash entry after 70051090 i.e. "... other non-wired glass" would cover non-wired glasses without absorbent, reflecting or non-reflecting layer.

5.4.4 The Adjudicating Authority has held that CTH 700521 covers glass which may or may not have absorbent or reflecting or non- reflecting layer. The Adjudicating Authority has contended that the impugned goods are coloured through out body (i.e. body tinted) and thus covered by CTH 700521 and articles of CTH 700521 may or not have absorbent/reflecting layers. This interpretation itself is erroneous in light of scheme of CTH under 7005 and explanation given in 5.4.3 above.

5.4.5. It is settled position of law that burden of proof of classification is on the Department. The classification has been changed on the basis of Test Reports. I have carefully going through the copies of Test Reports from CGCRI, Kolkata. I find that said Test Reports are not conclusive enough to reject the declared classification by the Appellant. Rather, the said Reports do mention the presence of Layer. The exact findings of some of the Test Reports in this regard are as under:-

"c) The Tin Side is detected under UV illumination using the detector.

i) *An absorbent layer (Tin) is observed on one side of the glass which is fluorescent under UV illumination.*

j) *The glass is found to be coated with ZnSO₄ film on opposite to tin side as protective layer."*

The Test Reports have clearly established that impugned goods were having absorbent layer (Tin) on one side. This fact is not disputed. Accordingly, I find absolutely no reason to exclude these goods from 700510 & classify them under 700521. Rather, the said goods viz. "Light Green Float Glass/Coloured Float Glass" with absorbent Layer of Tin on one side would merit classification under Sub-heading 7005 and more precisely under CTH 7051010."

24. As from the facts of the case, it is clear that the Clear Float Glass imported by the appellant are absorbent and having non-reflecting layer, in that circumstances, the appellant has qualified the merit classification under CTH 7005 1090, therefore, we hold the correct classification of the Clear Float Glass imported by the appellant under the impugned Bills of Entry is classifiable under CTH 7005 1090. Consequently, the appellant is entitled for benefit of Sl. No. 934 (I) of Notification No. 46/2011-CUS dated 01.06.2011

25. In view of this, we conclude that the impugned orders deserve no merit, hence, the same are set aside and the appeals are allowed with consequential relief, if any."

11. In the instant case, a conjoint reading of the Tariff Heading, relevant Chapter Note, test reports and the manufacturing process would establish that there is a thin TIN layer which is absorbent and non-reflective answering the tariff heading/chapter note in the affirmative, thus meriting classification under tariff item 70051090. As rightly contested by the appellants, there is no legal prescription as to which side

of the CFG should have such an absorbent, reflective/non-reflective layer. We are unable to persuade ourselves with the Revenue's contention which is based on contested CRA objection that the presence of metal layer should be by way of conscious coating and on the "Air Side" of the CFG. It is relevant to note here that on one hand the revenue themselves have not accepted the CRA objection, which is the basis for these proceedings, and are contesting the CRA objection. Thus, we conclude that the classification adopted by the appellant under tariff item 7005 1090 is correct and the classification determined in the impugned order is without any basis and hence not sustainable. Appreciating the ratio of the decision of Kolkata Tribunal in the Appellant's own case where facts are identical, we hold that the impugned Order-in-Original No. 101620/2023 dated 11.04.2023 cannot be sustained and so ordered to be set aside.

12. As such, we confirm the classification of the imported CFG under tariff item 7005 1090 and consequently, the appellants are rightly entitled for the benefit of Sl.No. 934 of Notification No. 46/2011-cus., as claimed by them subject to fulfilment of production of valid Customs Tariff (Determination of Origin of Goods under the Preferential Trade Agreement between the Government of Member States of ASEAN and Republic of India) Rules, 2009."

12. The Lower Appellate Authority has noted that the importer has not provided any technical literature or documentary evidence to substantiate their claim that the tin layer found on the tin side of the float glass serves as an absorbent or reflecting layer. Furthermore, there is no evidence to suggest that the presence of the tin layer is a deliberate attempt during the manufacturing process to

impart absorbent or reflecting properties to the glass. No samples were drawn in respect of these appeals for getting the CFG tested but we find that in respect of the earlier import by the same appellant, samples were drawn and sent to Central Glass and Ceramic Research Institute which has opined in respect of Bill of Entry No. 8520077 dated 19.10.2018 as given below: -

Report:

Based on the above test results and analysis, following points can be drawn:

- a) From complete chemical analysis it can be stated that, the composition of the glass is soda-lime silica based glass containing other minor components as given in the complete chemical analysis report.
- b) The measured average thickness of glass plate is observed to be 7.97 mm.
- c) The glass is float glass.
- d) It is clear float glasses with light transmission of 89.15 % with Fe_2O_3 content of 0.12 %
- e) It is not tinted glass.
- f) It is not green glass.
- g) It is not wired glass.
- h) An absorbent layer (Tin) is observed on one side of the glass which is fluorescent under UV illumination for both the glasses.
- i) It is annealed glass for decorative, industrial or automotive glass.

The above test report clearly indicate that an absorbent layer is observed on one side of the glass which is fluorescent under UV illumination for both the glasses thus satisfying Chapter Note 2(c) to Chapter 70. The classification of any imported goods has to be decided in terms of the provisions of Customs Tariff Act i.e, Section Notes, Chapter Notes & Chapter Headings and in terms of Interpretative Rules to the Customs Tariff Act duly aided by HSN Explanatory notes. Regarding the classification of CFG mentioned in the COO

Certificate issued in respect of these imports would not be having any bearing on the classification of the imported Clear Float Glass by the appellant. We also take note of the decisions rendered in the appellant's own case by the Customs Authorities for Advance Ruling No. CAAR/CUS/APPL/10/2022 and in the case of *M/s. Chandrakala Associates, Chennai* that irrespective of the Tariff Heading mentioned in the COO Certificate, the imported goods are appropriately classifiable under CTH 70051090.

13. We have considered the appellant's arguments that the Orders of the Tribunal on the issue of correct classification of Clear Float Glass as decided in the cases of *Bagrecha Enterprises Ltd. by Tribunal Kolkata and Tribunal Chennai vide Navakar Impex Pvt. Ltd. [F.O.No. 40960/2024 dated 24.07.2024], Float Glass Centre Vs. Commissioner of Customs, Chennai vide Final Order Nos. 40876-40908/ 2024 dated 18.07.2024, M/s. Enviro Safety Glass Vs. Commissioner of Customs, Audit, Chennai vide Final Order No. 40957/2024 dated 23.07.2024, M/s. Rider Glass Industries Pvt. Ltd. Vs. Commissioner of Customs, Chennai vide Final Order No. 40958/2024 dated 23.07.2024, etc.* The ratio of the above decisions is clearly applicable to the facts in these appeals also.

14. Appreciating the facts and following the above ratio of Tribunal decisions, we hold that the imported Clear Float Glass is more appropriately classifiable under Customs Tariff Heading 7005 1090 of the Customs Tariff Act, 1975 and thus is eligible for the exemption benefit of the Notification No. 46/2011-Cus. dated 01.06.2011 (Sl.No. 934) and as such, the impugned Order-in-Appeal C.Cus.II No. 463-467/2024 dated 16.05.2024 of Commissioner of Customs (Appeals II) cannot be sustained and ordered to be set aside. So, ordered accordingly.

15. Consequently, the appeals are allowed with consequential relief, if any, as per the law.

(Order pronounced in open court on 09.04.2025)

Sd/-
(AJAYAN T.V.)
MEMBER (JUDICIAL)

MK

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)