

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

REGIONAL BENCH - COURT No. I

**Customs Appeal No. 40814 of 2016**

(Arising out of Order-in-Appeal No.9/2016 dated 6-1-2016 passed by the  
Commissioner of Customs and Central Excels, (Appeals - II), Trichy)

**M/s. V. Square Impex,**  
XI/264, Sree Valsam,  
Bye Pass Road, Kavungal,  
Malapuram, District, Kerala - 670505.

**.... Appellant**

*VERSUS*

**Commissioner of Customs**  
Custom House, New Harbour Estate,  
Tuticorin, TN - 628004.

**...Respondent**

**APPEARANCE :**

Shri K.M. Suresh Chandran., Advocate for the Appellant  
Shri. Vineet Goyal, Authorised Representative for the Respondent

**CORAM :**

**HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)**  
**HON'BLE MR. AJAYAN T.V, MEMBER (JUDICIAL)**

**FINAL ORDER No.41397/2025**

DATE OF HEARING: 06.08.2025  
DATE OF DECISION:27.11.2025

**Per Ajayan T.V.**

M/s. V Square Impex, the appellant, has preferred this appeal, aggrieved by the Order in Appeal No.9/2016 dated 06.01.2016, (impugned order), passed by the Commissioner of Customs and Central Excels, (Appeals - II), Trichy.

1. Brief facts are that the appellant had imported Chudithar materials sets of cotton, georgette, etc., (unstitched) under Bills of Entry No. 484172 dated 19-04-2010 and 484254 dated 20.04.2010 which were classified under CTH 6208 9990 and assessed to applicable duties. The department, being of the view that as per the Customs Tariff Act, 'women's or girls' singlet, night dresses, pyjamas', etc., are classifiable under the specific CTH 62114210, issued a demand letter under C.No.VIII/48/354/2013-Imprt.Assmt. dated 12.08.2013 demanding the differential duty, which was later followed with a show cause notice dated 05.09.2013 to the importer, with a copy marked to

the CHA, alleging that the imported goods, 'Chudithars', alternatively termed as 'salwar' are appropriately classifiable under the CTH 62114210 and does not merit classification as 'girls singlets', night dress, pyjamas', etc. It was alleged that the appellant has misclassified the goods under CTH 6208990 by suppressing the facts with an intention to evade payment of duty to the extent of Rs.3,76,607/-. After due process of law, the adjudicating authority vide Order in Original Sl. No. 539/2015-AC (Imports), dated 27.04.2015, reclassified the imported goods under CTH 62114210, confirmed the demand of differential duty aforementioned with interest and imposed equivalent penalty under Section 114A of the Act and a penalty of Rs.1,00,000/- under Section 114AA of the Act on the appellant. Aggrieved by the order of the adjudicating authority the appellant preferred an appeal before the appellate authority, who has upheld the Order in Original vide the impugned order. The appellant being aggrieved and having filed the appeal, is before the tribunal.

2. Shri. K M Suresh Chandran, Learned Advocate, appearing for the appellant, submitted that the demand of duty is time barred and is not maintainable. It is submitted that the adjudicating authority has conceded in the order in the original that when the cargo was presented for assessment along with the bills of entry, the officers had examined the goods and draw samples. The period involved is prior to the introduction of self-assessment and it was the Department who has to determine the correct classification. There is no allegation that the appellant had given a wrong description of the goods. Hence the appellant could not be alleged to have misclassified the goods or having made any misstatement with an intention to evade payment of duty. It is also pointed out that when the demand letter for differential duty was made on 12.08.2013, the said letter did not have any allegation of suppression of facts with intent to evade payment of duty. It is submitted that merely claiming a classification when the description was correctly given, even if the claimed classification is not correct, does not amount to misdeclaration. Moreover, the demand of additional duty has arisen only on the basis of audit objection, further on merits, it is submitted that the items being unstitched and semi-stitched could not be classified under the proposed CTH. He prayed that the appeal may be allowed.

3. Shri. Vineet Goyal, authorized representative appearing for the respondent reiterated the findings of the appellate authority in the impugned order.
4. Heard both sides and perused the appeal records.
5. We find that the impugned imports were made in April 2010 and the show cause notice issue is dated 05.09.2013. Indisputably the imports were made prior to the introduction of self-assessment, vide Finance Act 2011 dated 08.04.2011 with effect from 08.04.2011. Moreover, concededly the officers had also drawn samples of the consignment and only thereafter had assessed and cleared the goods giving out of charge under section 47 upon their satisfaction that the appropriate duties have been paid.
6. We find merits in the submission that when there is no allegation in the show cause notice that the description of the goods have been given incorrectly by the appellant and when there is no evidence in the show cause notice of any positive act of mis-statement or suppression on the part of the appellant, the demand could not have been made invoking the extended period of limitation. We are therefore of the considered view that the demand is wholly barred by limitation. Therefore, the impugned order cannot be sustained and is liable to be set aside. Order accordingly.

The appeal is allowed with consequential relief if any.

(Order pronounced in open court on 27.11.2025)

**(AJAYAN T.V.)**  
Member (Judicial)

**(M. AJIT KUMAR)**  
Member (Technical)