

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

REGIONAL BENCH - COURT No. I

**Customs Appeal No. 42339 of 2016**

(Arising out of Order-in-Appeal C. Cus. II No.861/2016 dated 14.09.2016  
passed by the Commissioner of Customs (Appeals-II), Chennai)

**M/s. Poly Dist India (P) Ltd,**  
No.25, 1<sup>st</sup> Floor, Corporation Colony,  
Kodambakkam, Chennai – 600 024.

**.... Appellant**

*VERSUS*

**Commissioner of Customs**  
Chennai II Commissionerate,  
Custom House, 60, Rajaji Salai,  
Chennai – 600 001.

**...Respondent**

**APPEARANCE :**

Ms. Shewetha R.S., Advocate for the Appellant

Ms. Anandalakshmi Ganeshram, 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.41443/2025**

DATE OF HEARING: 21.08.2025

DATE OF DECISION: 08.12.2025

**Per Ajayan T.V.**

The Appellant, Poly Dist India Private Limited, is aggrieved by the Order in Appeal C.Cus II No. 861/2016, dated 14-09-2016, passed by the Commissioner of Customs (Appeals-II), Chennai.

2. The facts of the case, stated briefly, is that Poly Dist India private limited filed 10 bills of entry for clearance of "Polyvinyl Chloride (PVC) Suspension Resin, SP 660", classifying them under CTH 39042110/39042190 as "Other, Poly (Vinyl Chloride): Non-Plasticized: Poly (vinyl chloride) Resins" under self-assessment. The appellant cleared the goods availing concessional rate of duty under ASEAN-India Free Trade Area Preferential Tariff Agreement, vide Notification No.46/2011-Customs, dated 1.6.2011 (Sl.No.459).

3. The samples drawn from the imported consignments were tested at Central Institute of Plastic Engineering and Technology (CIPET) and the test results show that "the item is not in compound form, and also not mixed with any substances like Plasticizers"/ Non-Plasticizers/ any other substances. Therefore, the department was of the opinion that classification made by the appellant is incorrect and it is rightly classifiable under the CTH subheading 39041090- "Poly (Vinyl Chloride) not mixed with any other substances"-Others. Alleging thus, the Show Cause Notice was issued proposing to deny the benefit of the notification claim and demanding differential duty under section 28(1) of the Customs Act 1962 along with applicable interest. After due process of law, the adjudicating authority confirmed the demands by the aforesaid order in original. The appeal preferred before the appellate authority was also rejected by the impugned order and hence this appeal.
4. Ms. Shwetha R S, Ld. Advocate appearing on behalf of the appellant contended that the Ld. Commissioner (Appeals) had, in the case of Lila Polymers Private Limited vide Order in Appeal C. Cus-II No.3 & 4 of 2015, dated 19-1-2015 held that the product PVC, Resin Suspension Grade SP-660 is classifiable under CTH-39042110 and is eligible for the benefit of Notification No 46/2011-Cus. Therefore, the denial of the said benefit to the goods imported by the appellant that are identical in description, end use and technical composition is an arbitrary departure from the earlier order. Further, the appeal preferred by the department against the said OIA dated 19-1-2015 were dismissed by the Hon'ble tribunal on monetary grounds. For the proposition that inconsistent classification of identical goods by the same adjudicating authority violates the principles of legal certainty, uniformity and equality, she placed reliance on the decisions in ***Novozymes, South Asia Private Limited, versus Joint Commissioner of State GST, (2024), 22, Centax 75, (Guj.)/2024 (89) GSTL 333, (Guj.)*** and the decision of the Honourable High Court of Madras in ***M/s. Viewsonic Technologies India Private Limited v. The Customs Authority for Advanced Rulings & Anr., C.M.A, No. 2268 of 2024, decided on 1-4-2025.***

Ld. Counsel submitted that the department had relied upon the test report No.24936 dated 25.11.2024 given in respect of goods imported by another importer, namely, Ramnath & Co, P Ltd., to reject the appellant's classification. Ramnath & Co P Ltd., had preferred an appeal before this Hon'ble Tribunal which allowed the appeal by holding that the tariff heading for the goods were 39042110 and vide Final Order No. 40748/2025 dated 21.07.2025 set aside the order impugned therein. Reliance is also placed on the decisions of the Tribunal Chennai in the case of ***M/s. Arun Polymers versus CC vide Final Order No. 40767/2025 dated 29.07.2025*** and the decision in ***M/s. Surabhi Enterprises Pvt Ltd., Vs. CC (Port), Kolkata, 2025 (7) TMI 576.***

5. Ld. Counsel further submits on merits that :-

(i) The six-digit heading CTH 3004 10 covers "Poly (Vinyl chloride), not mixed with any other substances, and is sub-classified into

CTH 3904 10 10-*Binders for pigments, and*

CTH 3904 1090- *Other.*

Thereafter, the tariff provides for a separate single-dash entry for "Other poly (vinyl chloride)", which is sub-classified at the six-digit level into:

CTH 3904 21- *Non plasticized, and*

CTH 3904 22-*Plasticsed*

The non-plasticized category (CTH 3904 21) is further divided at the eight-digit level, where CTH 3904 21 10 specifically covers Poly (vinyl chloride) resins. A harmonious reading of CTH 3904 21 (non-plasticized) and CTH 3904 2110 (PVC resins) leaves no doubt that the impugned goods squarely fall under-CTH 3904 21 10. In contrast, CTH 3904 10 90 is a residual category under CTH 3904 10, which covers goods not mixed with other substances and having specific uses such as binders for pigments.

(ii) that CTH 3904 21 10 is the specific heading applicable to non-plasticized PVC resins, and CTH 3904 10 90 is a residuary heading. As per Rule 3(a) of the General Rules for the Interpretation of Import

Tariff, "the heading which provides the most specific description shall be preferred to headings providing a more general description". Hence, classification under the residual heading CTH 3904 10 90 is legally impermissible when a specific heading CTH 3904 21 10 squarely covers the goods in question. Furthermore, the presence of CTH 3904 21 and CTH 3904 22 as distinct sub-headings under Heading 3904 reinforces the legislative intent that CTH 3904 10 does not cover either plasticized or non plasticized PVC resins. Therefore, classification of the impugned goods under CTH 3904 10 90 is legally unsustainable.

6. Ms. Anandalakshmi Ganeshram, Ld. Authorized Representative appearing for the respondent, reiterated the findings of the appellate authority in the impugned order.
7. Heard both sides, perused the appeal records and decisions relied upon.
8. We find that the issue is no more res integra and this tribunal had vide its decision in the case of M/s. Arun polymers, vide Final Order No. 40767/2025, dated 29-7-2025, authored by one of us (M. Ajit Kumar, Technical Member) had an occasion to examine the classification of the impugned goods, and after examining, the divergent views taken by the Learned Commissioner (Appeals) therein, it was held is as under:-

"11. Based on the discussions we feel that the Ld. Commissioner Appeals had correctly interpreted the test reports and the law in M/s Lila Polymers (supra) and should not have allowed a change in semantics to have altered his opinion so drastically and to speak in two voices on the same issue.

12. We are hence of the opinion that the impugned order merits to be set aside and the appropriate Customs tariff heading for the impugned goods held to be 39042110.

13. We are fortified in our views by the order of a coordinate Bench of this Tribunal at Kolkata in the case of **M/s Surabhi**

**Enterprises** (supra) cited by revenue. In that case the only dispute as stated by revenue was that the imported goods being 'uncompounded or pure PVC Resin' are classifiable under Tariff Item 3904 10 90 within sub-Heading 3904.00, which covers 'Poly (vinyl chloride), not mixed with any other substances', whereas, the Appellants have classified the goods under Tariff Item 3904 21 10 which covers 'Poly (vinyl chloride) resins', within sub-heading 3904.21 which covers 'other poly (vinyl chloride) non-plasticised'. However, this change in CTH pertained to the period after 31.03.2017 when 'Poly (vinyl chloride) resin' falling under the heading 3904 2110 was deleted and shifted to 3904 10, as per the Finance Act, 2017. The period in this case is prior to the change made in the heading when 'Poly (Viny Chloride) resin' was covered under a specific tariff heading. The Tribunal at para 5.3 held;

5.3. From the Heading 39.04, it is evident that during the period in dispute, Tariff Item 3904 21 10 was specific entry for 'Poly (vinyl chloride) resin'. It is settled law that specific entry will prevail over general one. Rule 3(a) of General Rules for the Interpretation of Import Tariff Schedule also provides that the heading which provides the most specific description shall be preferred to headings providing a more general description. **In the present case, Tariff Item 3904 2110 is specific for Poly (vinyl chloride) resins', whereas Tariff Item 3904 10 90 covers 'Others' which is a residuary entry and the same cannot be preferred over a specific entry. The imported goods are 'PVC resin suspension grade' which is non-plasticised. Therefore, going by the General Rules for Interpretation, we find that subheading 3904 21 is a specific heading, which is to be preferred over the general Heading 3904 00.** Thus, we observe that the imported goods are correctly classifiable under sub-heading 3904.21 (Tariff Item 3902 21 10) by application Rule 3(a) of General Rules for the Interpretation of Import Tariff Schedule."

(emphasis added)

9. We find that the issue in facts and law, in the present case is similar to that as decided above. Hence, we set aside the impugned order, finding it untenable.

The appeal is allowed with consequential relief(s) in law, if any.

(Order pronounced in open court on 08.12.2025)

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

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

psd