**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.**

PRINCIPAL BENCH,
COURT NO. I

EXCISE APPEAL NO. 52554 OF 2015

[Arising out of the Order-in-Original No. 01 to 03/COMMR/IND/CEX/2015 dated 30/01/2015 passed by The Commissioner, Customs, Central Excise & Service Tax, Indore.]

Commissioner, Customs, **Appellant**
Central Excise & Service Tax,
PB – 10, Manik Bagh Palace,
Indore (M.P.) – 452 010.

VERSUS

M/s Neo Corp International Ltd., **Respondent**
Plot No. 62-63, Industrial Area Sector – I, Pithampur,
Distt. Dhar (M.P.).

APPEARANCE

Shri Sanjay Kumar Singh, Authorized Representative (DR) – for the Department
None – for the respondent.

CORAM : **HON'BLE SHRI JUSTICE DILIP GUPTA, PRESIDENT**
HON'BLE SHRI P.V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 51048/2022

DATE OF HEARING : 01.11.2022

JUSTICE DILIP GUPTA

The Department has filed this appeal to assail the order dated 30.01.2015 passed by the Commissioner by which the demand proposed in the three show cause notices has been dropped as the goods manufactured by the respondent have been classified under Chapters 54, 60 and 63 of the Central Excise Tariff in view of the decision of the Tribunal dated

28.10.2014 in the matter of M/s Flora Agro (which decision was subsequently accepted by the Department) as also the orders of the Commissioner (Appeals) dated 05.09.2011, 22.03.2012 and 20.08.2014 which have also been accepted by the Department.

2. The Commissioner noted in the order that the issue that was required to be decided is as follows :-

> "Whether the plastic Tape & strips, Woven Fabrics & Woven Sacks, FIBC (flexible intermediate bulk carriers), HDPE/PP/LDPE sacks, Bags and warp knit fabrics manufactured and cleared by the Noticee No. 1 are correctly classified by the Noticee No. 1 under Chapter Heading No's 54041990, 54072090, 63053300, 630533200 and 60053300 or merit classification under Chapter Heading No. 39201099, 39269099, 39232100/39232990 as sought by DGCEI".

3. The relevant portion of the order of the Commissioner is reproduced below :-

> "My view that the goods manufactured by the Noticee No. 1 are appropriately classifiable under Chapter 54, 63 and 60 of the Central Excise Tariff which is also affirmed by the decision of the Hon'ble CESTAT, Ahmedabad in the case of M/s Flora Agro versus CCE & ST – Vapi vide its Order No. A/11845/2014 dated 28/10/2014 which has been accepted by the Department on 10.12.2014 on merits as communicated vide letter F. No. V (Misc) I-4/Valsad/14-15/RC dated 20.01.2015 as also Order-in-Appeal No. IND/CEX/000/APP/350/2011 dated 05.09.2011 and OIA No. IND/CEX/000/APP/81/12 dated 22.03.2012. I therefore have no hesitation in holding that the products manufactured by the Noticee deserve to be classified under Chapter Heading 54, 63 and 60. Held accordingly.
>
> In view of the elaborate discussions on the question of classification of the products manufactured by the Noticee on the basis of which it has been held that the same merit classification under Chapter Heading 54, 63 and 60, I do not find it necessary to discuss the point raised by the Noticee regarding the value of clearances on which the duty demand has been proposed in the Show Cause Notice as alsop the other contentions of the Noticee in respect of imposition of penalty and issuance of Show Cause Notice".

4. It is not disputed by the learned Authorized Representative appearing for the Department that the issue raised before the

Commissioner in the present matter was the issue considered in the two orders passed by the Commissioner (Appeals), which orders have been accepted by the Department.

5. In this view of the matter, there is no error in the order passed by the Commissioner. The appeal is, accordingly, dismissed.

(JUSTICE DILIP GUPTA)
PRESIDENT

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)

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