

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

PRINCIPAL BENCH,
COURT NO. I

EXCISE APPEAL NO. 50537 OF 2024

[Arising out of the Order-in-Original No. 13-17/COMMR/CE/UJN/2023-24 dated 29/12/2023 passed by Principal Commissioner, CGST & Central Excise, Ujjain (M.P.).]

**Principal Commissioner, CGST &
Central Excise,**

29, Administrative Area, Bharatpuri,
Ujjain – 456 001 (M.P.).

Appellant

VERSUS

M/s Safeflex International Ltd.,

Unit-II, Plot No. 808-G & 808-H,
Sector – III, Industrial Area,
Pithampur (M.P.).

Respondent

**WITH
EXCISE APPEAL NO. 50538 OF 2024**

[Arising out of the Order-in-Original No. 13-17/COMMR/CE/UJN/2023-24 dated 29/12/2023 passed by Principal Commissioner, CGST & Central Excise, Ujjain (M.P.).]

**Principal Commissioner, CGST &
Central Excise,**

29, Administrative Area, Bharatpuri,
Ujjain – 456 001 (M.P.).

Appellant

VERSUS

M/s Safeflex International Ltd.,

Unit-II, Plot No. 808-G & 808-H,
Sector – III, Industrial Area,
Pithampur (M.P.).

Respondent

**WITH
EXCISE APPEAL NO. 50539 OF 2024**

[Arising out of the Order-in-Original No. 13-17/COMMR/CE/UJN/2023-24 dated 29/12/2023 passed by Principal Commissioner, CGST & Central Excise, Ujjain (M.P.).]

**Principal Commissioner, CGST &
Central Excise,**

29, Administrative Area, Bharatpuri,
Ujjain – 456 001 (M.P.).

Appellant

VERSUS

M/s Safeflex International Ltd.,
Unit-II, Plot No. 808-G & 808-H,
Sector – III, Industrial Area,
Pithampur (M.P.).

Respondent

**WITH
EXCISE APPEAL NO. 50540 OF 2024**

[Arising out of the Order-in-Original No. 13-17/COMMR/CE/UJN/2023-24 dated 29/12/2023 passed by Principal Commissioner, CGST & Central Excise, Ujjain (M.P.).]

**Principal Commissioner, CGST &
Central Excise,**
29, Administrative Area, Bharatpuri,
Ujjain – 456 001 (M.P.).

Appellant

VERSUS

M/s Safeflex International Ltd.,
Unit-II, Plot No. 808-G & 808-H,
Sector – III, Industrial Area,
Pithampur (M.P.).

Respondent

**AND
EXCISE APPEAL NO. 50541 OF 2024**

[Arising out of the Order-in-Original No. 13-17/COMMR/CE/UJN/2023-24 dated 29/12/2023 passed by Principal Commissioner, CGST & Central Excise, Ujjain (M.P.).]

**Principal Commissioner, CGST &
Central Excise,**
29, Administrative Area, Bharatpuri,
Ujjain – 456 001 (M.P.).

Appellant

VERSUS

M/s Safeflex International Ltd.,
Unit-II, Plot No. 808-G & 808-H,
Sector – III, Industrial Area,
Pithampur (M.P.).

Respondent

APPEARANCE

Shri Ratnesh Kumar Mishra, Authorized Representative (DR) – for the Department
Ms. Priyanka Rathi and Ms. Priyanshi Chakraborti, Advocates – for the respondent.

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

FINAL ORDER NO. 51041-51045/2025

DATE OF HEARING/DECISION : 09.07.2025

JUSTICE DILIP GUPTA

All these five appeals have been filed by the department to assail the order dated 29.12.2023 passed by the Principal Commissioner, CGST & Central Excise, Ujjain¹ by which the five show cause notices issued for the period ranging from January 2014 to June 2017 have been adjudicated upon by dropping the proceedings initiated against the respondent – M/s Safeflex International Ltd.²

2. The respondent is engaged in the manufacture of various goods including Shade Nets, FIBC, Ropes, Film Liners, Non-woven Laminates, Woven Fabric, and Warp Knit Fabric. The product in issue in these appeals is Warp Knit Fabric which is manufactured from HDPE/LDPE granules processed into tapes of width less than 5mm. The respondent classified the product under Central Excise Tariff Item³ 6005 33 00 and claimed exemption under Notification No. 30/2004 dated 09.07.2004⁴ which exempts goods under Chapter 60 subject to non-availment of CENVAT credit.

3. The contention of the department is that Warp Knit Fabric is classifiable under CETI 3926 90 99, while according to the respondent it is classifiable under CETI 6005 33 00.

1. the Principal Commissioner
2. the respondent
3. CETI
4. the Exemption Notification

4. The Principal Commissioner accepted the classification of the respondent holding that Warp Knit Fabric would be classifiable under CETI 6005 33 00 and not under CETI 3926 90 99. Accordingly, the proceedings initiated by the show cause notices have been dropped. In coming to such a conclusion, the Principal Commissioner placed reliance on a decision of this Tribunal in **Commissioner of Customs, Central Excise & Service Tax, Indore versus Neo Corp International Ltd.**⁵ The order passed by the Tribunal is reproduced below :-

"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 also 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".

(emphasis supplied)

5. A perusal of the aforesaid order of the Tribunal would indicate that it noticed that the Commissioner had placed reliance on the decision of the Tribunal in **Flora Agrotech** versus

Commissioner of Central Excise, Vapi⁶, which decision was accepted by the department.

6. The relevant portion of the order dated 29.12.2023 passed by the Principal Commissioner that has been impugned in this appeal is reproduced below :-

"28. In the instant matter it has been alleged in the show cause notices that the noticee has evaded Central Excise Duty by way of misclassification of goods manufactured by them. **The noticee had classified their goods i.e. Warp Knit Fabrics under chapter sub heading No. 60053300 whereas it was the contention of the department that the said goods are classifiable under Chapter Sub Head No. 39269099 of the Central Excise Tariff Act, 1985.** Accordingly show cause notices were issued to the noticee for demand of Central Excise Duty arising out of wrong classification of goods as detailed above. **In the instant case the issue regarding classification of goods i.e. Warp Knit Fabrics manufactured by the noticee was initially decided by CESTAT vide Final Order No. 51048/2022 dated 01.11.2022 in the case of M/s Neo Corp International Ltd. wherein CESTAT has ruled that the goods i.e. Warp Knit Fabrics are correctly classifiable under Chapter head No. 60053300 and do not merit classification under Chapter Head No. 39269099 as contended by the department.**

.....

29. Thus in view of above observations of CESTAT the noticee was correctly classifying their goods i.e. Warp Knit Fabrics under chapter sub heading No. 60053300 and the said goods do not merit classification under Chapter Sub Head No. 39269099 of the Central Excise Tariff Act 1985 as contended by the department. **Further, against the said order of CESTAT, the department preferred an appeal before the Hon'ble Supreme Court. However, the Apex Court vide order**

6. 2015 (319) E.L.T. 333 (Tri. – Ahmd.)

dated 04.07.2023 in civil appeal number 4162/2023 dismissed the appeal of the department and again gave ruling in favour of the noticee. Relevant portion of the Apex Court vide dated 07.07.2023 order is reproduced below :-

"2. Heard the learned counsel appearing for the appellant.

3. No case for inter-reference is made out. The Civil Appeal is dismissed".

Thus in view of above, after thorough examination of the case and considering the facts, circumstances and the noticee's response and judgments cited above I observed that the subject issue of classification has been conclusively settled by the Hon'ble Supreme court. The Hon'ble Supreme Court, in its order, found no irregularities or lacuna in the judgment of the CESTAT. Notably, the CESTAT had explicitly affirmed that the noticee's classification was correct. **Thus in the matter I find that the goods manufactured by the noticee are correctly classifiable under chapter sub heading No. 60053300 of the Central Excise Tariff Act, 1985 and the demand in the impugned show cause notices do not sustain on merit and is liable to be dropped.**

30. **In the matter, I find that the principles and tenets** of judicial discipline require that the orders of the higher appellate authorities should be followed unreservedly by the subordinate authorities. When an order is passed by a higher authority, the lower authority is bound to follow it. I place reliance on the ratio laid down in the following case laws :

(i) **Union of India** versus **Kamlakshi Finance Corporation Ltd.**⁷ and

(ii) **Claris Life Sciences Ltd.** versus **Union of India**⁸

(emphasis supplied)

7. Ms. Priyanka Rath, learned counsel for the respondent has also placed a decision in the matter of the respondent itself for

7. 1991 (55) E.L.T. 433 (S.C.)

8. 2013 (298) E.L.T. 45 (Guj.)

the previous year from October 2012 to December 2013 in **Safeflex International Ltd. versus CCE & ST, Indore**⁹ regarding the classification of the same product Warp Knit Fabric under CETI 6005 33 00. This order of the Tribunal placed reliance on the earlier decision of the Tribunal in **Flora Agrotech**.

8. Shri Ratnesh Kumar Mishra, learned authorized representative appearing for the department has reiterated the grounds taken in the appeal.

9. The classification of Warp Knit Fabric is involved in these appeals. The Principal Commissioner held that classification would be under CETI 6005 33 00 as claimed by the respondent and not under CETI 3926 95 99 as claimed by the department. This conclusion was arrived at by the Principal Commissioner on the basis of decisions of the Tribunal, which decisions have been accepted by the department. Once the Tribunal had held that the product was to be classified under CETI 6005 33 00 and the decisions of the Tribunal were accepted by the department, the Principal Commissioner was bound to follow the decision of the Tribunal and indeed he did to keeping in mind that judicial discipline required him to do so.

10. The present appeals have been filed by the department in view of the directions issued by the Committee of Chief Commissioners under section 35A of the Central Excise Act, 1944. It would be appropriate to refer to the directions issued by the Committee of Chief Commissioners for the reason that

comments have been made against the decision of the Tribunal and the Supreme Court, which decisions had been relied upon by the respondent before the Principal Commissioner. The Committee of Chief Commissioners observed the decision of the Tribunal in **Neo Corp International** did not relate to the present respondent and, therefore, "the legal premise taken by the adjudicating authority that he was judicially bound to follow the said FO is factually incorrect and the decision has further been made by the adjudicating authority as though the decision applied to the notice. Therefore, the decision made by the adjudicating authority is not legally correct or proper". The Committee of Chief Commissioners further observed that the blind application on the above counts by adjudicating authority on the said order of the Tribunal is judicially untenable and is legally not correct. According to the Committee of Chief Commissioners, the adjudicating authority was bound to examine the grounds canvassed in the show cause notice even if the facts were the same, and was further bound to decide those aspects and grounds through a speaking order. The Committee of Chief Commissioners concluded that the order passed by the adjudicating authority was a non-speaking order.

11. In respect of the order of the Supreme Court dismissing the appeal filed by the department against the order in **Neo Corp International** the Committee of Chief Commissioners observed:

"In this regard, as noted above, the instant noticee was not a party to the appeal proceedings held before the CESTAT or the Hon'ble Supreme Court. Thus, the said decision was not

relevant to the instant notice in the absence of evidence brought on record to establish the applicability of the ratio of the decision to the noticee. **It is also to be observed that the decision of the Hon'ble Supreme Court in the said case of Neo Corp International Ltd. had not declared the law applicable to all parties inasmuch as the said decision had been made by way of not through a detailed speaking order and such orders are relevant to resolve disputes involving the parties to the appeal filed. Therefore, the decision made by the adjudicating authority to consider the said order as a binding precedent is not legally correct.**

X x x x x

The departmental Civil Appeal filed before the Hon'ble Supreme Court was dismissed after the same being admitted by the Hon'ble Court. It is evident on record that the Court had not examined the merits of the dispute raised on the decision made on classification by the CESTAT. Therefore, the decision made by the Hon'ble Court cannot be said to be a binding precedent as regards the classification of goods in dispute".

(emphasis supplied)

12. The Committee of Chief Commissioners noted that the view taken by the Principal Commissioner that he was judicially bound to follow the order of the Tribunal is factually incorrect, more so when the decision was not concerning the present respondent but some other party.

13. It is the principal of law laid down in a decision that has to be followed and merely because that principal of law was laid down in the matter of a party, other than the respondent, would not mean that it would not apply to the present respondent. Once the Tribunal had determined the classification of the product in dispute, it was binding on the Principal Commissioner and he

correctly followed the decision of the Tribunal after placing reliance upon the decisions of the Supreme Court in **Kamlakshi Finance Corporation Ltd.** and **Claris Life Sciences Ltd.**

14. The view taken by the Committee of Chief Commissioners is clearly contrary to decisions of the Supreme Court.

15. In **Smt. Kaushalya Devi Bogra and others vs. The Land Acquisition Officer and another**¹⁰, the Supreme Court observed that the direction of an Appellate Court is binding on the courts subordinate thereto and that judicial discipline requires and decorum known to law warrants that appellate directions should be taken as binding and followed. In this connection, the Supreme Court referred to the observations made by the House of Lords and the relevant portions of the judgment of the Supreme Court are reproduced below:

"The direction of the appellate court is certainly binding on the courts subordinate thereto. That apart, in view of the provisions of Article 41 of the Constitution, all courts in India are bound to follow the decisions of this Court. **Judicial discipline requires and decorum known to law warrants that appellate directions should be taken as binding and followed.** It is appropriate to usefully recall certain observations of the House of Lords in *Broom v. Cassell & Co.*(1) Therein **Lord Hailsham**, L. C. observed:

"The fact is, and I hope it will never be necessary to say so again, that in the hierarchical system of courts which exist in this country, **it is necessary for each lower tier, including the Court of**

10. AIR 1984 SC 892

Appeal, to accept loyally the decisions of the higher tier."

Lord Reid added:

"It seems to me obvious that the Court of Appeal failed to understand Lord Delvin's speech but whether they did or not, I would have accepted them to know that they had no power to give any such direction and to realise the impossible position in which they were seeking to put those judges in advising or directing them to disregard a decision of this House."

Lord Diplock observed at p. 874 of the Reports:

"It is inevitable in a hierarchical system of courts that there are decisions of the Supreme appellate tribunal which do not attract the unanimous approval of all members of the judiciary. When I sat in the Court of Appeal, I sometimes thought the House of Lords was wrong in overruling me. Even since that time there have been occasions, of which the instant appeal is one, when alone or in company. I have dissented from a decision of the majority of this House. **But the judicial system only works if someone is allowed to have the last word and if that last word, once spoken, is loyally accepted.**"

(emphasis supplied)

16. It will also be appropriate to refer to the decision of the Supreme Court in **Kamlakshi Finance Corporation**. The order passed by the Assistant Collector not only ignored the order of the Collector (Appeals) remanding the matter, but also distinguished the decision of the Tribunal by observing that the

decision of the Tribunal had not been agreed to by the Department as an appeal had been filed in the Supreme Court. The assessee filed a Writ Petition in the Bombay High Court to challenge the said order of the Assistant Collector. The High Court not only quashed the order passed by the Assistant Collector but also directed the Department to allocate the matter to a competent officer for passing a proper order. It is against this decision of the Bombay High Court that the Union of India preferred an appeal before the Supreme Court. The Supreme Court remarked that as the Assistant Commissioner had not followed the decision of the Tribunal merely because an appeal had been filed by the Department before the Supreme Court, the High Court had rightly criticized the conduct of the Assistant Collector since it resulted in harassment to the assessee caused by the failure to give effect to the order passed by the Tribunal. The Supreme Court also observed that the order of the Tribunal is binding upon the Assistant Collectors who functions under the jurisdiction of the Tribunal and that the principles of judicial discipline require that the orders of higher appellate authorities are unreservedly followed by the subordinate authorities. The relevant portion of the order of the Supreme Court is reproduced below:

"6. Sri Reddy is perhaps right in saying that the officers were not actuated by any mala fides in passing the impugned orders. They perhaps genuinely felt that the claim of the assessee was not tenable and that, if it was accepted, the Revenue would suffer. But what Sri Reddy overlooks is that we are not concerned here with the correctness or

otherwise of their conclusion or of any factual mala fides but with the fact that the officers, in reaching in their conclusion, by-passed two appellate orders in regard to the same issue which were placed before them, one of the Collector (Appeals) and the other of the Tribunal. **The High Court has, in our view, rightly criticised this conduct of the Assistant Collectors and the harassment to the assessee caused by the failure of these officers to give effect to the orders of authorities higher to them in the appellate hierarchy.** It cannot be too vehemently emphasised that it is of utmost importance that, in disposing of the quasi-judicial issues before them, revenue officers are bound by the decisions of the appellate authorities; **The order of the Appellate Collector is binding on the Assistant Collectors working within his jurisdiction and the order of the Tribunal is binding upon the Assistant Collectors and the Appellate Collectors who function under the jurisdiction of the Tribunal. The principles of judicial discipline require that the orders of the higher appellate authorities should be followed unreservedly by the subordinate authorities.** The mere fact that the order of the appellate authority is not "acceptable" to the department - in itself an objectionable phrase - and is the subject matter of an appeal can furnish no ground for not following it unless its operation has been suspended by a competent court. If this healthy rule is not followed, the result will only be undue harassment to assessees and chaos in administration of tax laws.

8. We have dealt with this aspect at some length, because it has been suggested by the learned Additional Solicitor General that the observations made by the High Court, have been harsh on the officers. It is clear that the observations of the High Court, seemingly vehement, and apparently unpalatable to the Revenue, are only intended to curb a tendency in revenue matters which, if allowed to become widespread, could result in considerable

harassment to the assesses-public without any benefit to the Revenue. We would like to say that the department should take these observations in the proper spirit. **The observations of the High Court should be kept in mind in future and the utmost regard should be paid by the adjudicating authorities and the appellate authorities to the requirements of judicial discipline and the need for giving effect to the orders of the higher appellate authorities which are binding on them.**"

(emphasis supplied)

17. The aforesaid decisions of the Supreme Court have been referred to by the Supreme Court in **Commissioner of Income Tax vs. Ralson Industries Ltd.**¹¹ and it has been observed that when an order is passed by a higher authority, the lower authority is bound, keeping in view the principles of judicial discipline.

18. Recently, a Division Bench of the Madras High Court in **Royal Sundaram General Insurance Company Limited vs. Commissioner of Central Excise and Service Tax**¹² consisting of the Acting Chief Justice R. Mahadevan (now Hon'ble Judge of the Supreme Court) and Justice Mohammed Shaffiq also examined this issue. What was assailed before the Madras High Court was a reference order in which Member (Judicial) and Member (Technical) differed in their views. The Madras High Court noticed that the issue that had come up for consideration before the Division Bench of the Tribunal had been dealt with and

11. (2007) 2 SCC 326

12. Writ Petition No's. 31725 and 31726 of 2023 decided on 24.05.2024

decided by co-ordinate benches of the Tribunal and so there was no reason to make a reference to a third Member. In this connection, the Madras High Court also made reference to various decisions and the observations made by the Madras High Court are reproduced below:

"14. Referring to the decisions of the Honourable Supreme Court in **Union of India vs. Kamlakshi Finance Corporation Limited reported in 1992 Suppl (1) Supreme Court Cases 443** and in **East India Commercial Co. Ltd vs. Collector of Customs, Calcutta** reported in **1983 (13) E.L.T. 1342 (SC)**, the learned Senior counsel for the petitioner submitted that **judicial discipline demands that the decision reached by the coordinate benches has to be scrupulously followed by the other Tribunal. However, in this case, the Tribunal has taken a contrary decision and refused to place reliance on the decisions of the Coordinate Benches.** Thus, according to the learned Senior Counsel, without taking note of the ratio laid down by the Coordinate Benches, on the very same issue, the Member (Technical) has passed the prejudicial portion of the order, which cannot be allowed to be sustained.

15. **We find much force in the submissions so made by the learned Senior counsel for the petitioner. The prejudicial portion of the order has been passed by the Tribunal in derogation of the various orders passed by the coordinate benches of the Tribunal on the very same issue.** xxxxxxxxxx. Therefore, we hold that the very reference made by the Tribunal to determine as to whether the conclusion reached by the Member (Judicial) is right or the one made by the Member (Judicial) itself is unnecessary. The issue before the Tribunal has already been examined and adjudicated by the coordinate benches and it binds the Tribunal in all respects. While so, the Tribunal cannot go

beyond the settled issue and to re-adjudicate the same by referring the dispute to a third member. **Judicial discipline requires that the orders of the coordinate bench or the jurisdictional High Court have to be followed without in any manner attempting to factually re-examine or re-adjudicating the same issue.**

16. **At this juncture, it would be appropriate to refer to the decision of Hon'ble Supreme Court in the case of Official Liquidator v. Dayanand and others, reported in (2009) 1 SCC (L&S) 943, in which, the aspect of judicial discipline has been discussed in detail.**

XXXXXXXXXXXXX

78. There have been several instances of different Benches of the High Courts not following the judgments/orders of coordinate and even larger Benches. In some cases, the High Courts have gone to the extent of ignoring the law laid down by this Court without any tangible reason. Likewise, there have been instances in which smaller Benches of this Court have either ignored or bypassed the ratio of the judgments of the larger Benches including the Constitution Benches. These cases are illustrative of non-adherence to the rule of judicial discipline which is sine qua non for sustaining the system."

(emphasis supplied)

19. The Madras High Court also placed reliance on the decision of the Supreme Court in **Official Liquidator vs. Dayanand and others¹³**, in which the aspect of judicial discipline has been discussed in detail. Paragraph 90 of the decision of the Supreme Court in **Official Liquidator**, on which reliance has been placed by the Division Bench of the Madras High Court, is reproduced below:

"90. **We are distressed to note that despite**

13. **(2009) 1 SCC (L&S) 943**

several pronouncements on the subject, there is substantial increase in the number of cases involving violation of the basics of judicial discipline. The learned Single Judges and Benches of the High Courts refuse to follow and accept the verdict and law laid down by coordinate and even larger Benches by citing minor difference in the facts as the ground for doing so. Therefore, it has become necessary to reiterate that disrespect to constitutional ethos and breach of discipline have grave impact on the credibility of judicial institution and encourages chance litigation. **It must be remembered that predictability and certainty is an important hallmark of judicial jurisprudence developed in this country in last six decades and increase in the frequency of conflicting judgments of the superior judiciary will do incalculable harm to the system inasmuch as the courts at the grass root will not be able to decide as to which of the judgment lay down the correct law and which one should be followed."**

(emphasis supplied)

20. The Committee of Chief Commissioners also commented on the application of the decision of the Tribunal in **Neo Corp** by stating that "blind application to the order of the Tribunal is judicially untenable and legally not correct". It is clearly a case where Committee of Chief Commissioners failed to notice the well known principles laid down from time to time.

21. The Committee of Chief Commissioners has not only commented on the order passed by the Tribunal but also on the order of the Supreme Court dismissing the appeal filed by the

department against the order of the Tribunal by stating that the said decision of the Supreme Court "had been made by way of not through a detailed speaking order and such orders are relevant to resolve dispute involving the parties before the Supreme Court. The appeal filed by the department was dismissed by the Supreme Court holding that no case for interference was made out".

22. We have elaborately dealt with this issue so that in future when decisions are taken by the Committee of Chief Commissioners, such uncalled for remarks against the orders of the Supreme Court and the Tribunal are not made and the principles of law that have been laid down in the decisions relied upon are followed and not distinguished solely for the reason that they would apply only to the parties to the decisions and would not apply to other parties.

23. In view of the binding decisions of the Tribunal on the issue of classification of Warp Knit Fabric under CETI 6005 33 00, it has to be held that the respondent was entitled to the benefit of the Exemption Notification and the Principal Commissioner committed no illegality in dropping the proceedings initiated by the three show cause notices issued to the respondent. The appeals filed by the department are frivolous and deserve to be dismissed.

24. All the five appeals filed by the department are, accordingly, dismissed.

(Order dictated and pronounced in open court.)

(JUSTICE DILIP GUPTA)
PRESIDENT

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

PK