

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Excise Appeal No. 50529 of 2024

(Arising out of Order-in-Original No. 18-21/COMMR/CE/UJN/2023-24 dated 29.12.2023 passed by the Principal Commissioner of Central Excise & Central Goods & Services Tax, Ujjain)

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

29, Administrative Area, Bharatpuri,
Ujjain-456001 (M.P.)

VERSUS

M/s Neo Corp International Ltd.

...Respondent

Plot No. 62-63,
Industrial Area Sector I Pithampur,
Dist. Dhar, (M.P.)

With

50530/2024

50531/2024

50532/2024

APPEARANCE:

Shri R.K. Mishra, Authorized Representative of the Department
Ms. Neha Agarwal, Advocate for the Liquidator

CORAM :

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT

HON'BLE MR. P. V. SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing/Decision: 17.07.2025

FINAL ORDER NO. 51087-51090/2025

JUSTICE DILIP GUPTA:

All these four appeals have been filed by the department to assail the common order dated 29.12.2023 passed by the Principal Commissioner, CGST and Central Excise, Ujjain by which the proceedings initiated against the respondent- M/s Neo Corp International Ltd.¹

2. The respondent is engaged in the manufacture of various goods including "Woven Sacks", "FIBC" and "Wrap Knit Fabric". The

1. Neo Corp

respondent classified the product under Central Excise Tariff Item² 6305 3200, CETI 6005 33 00 and CETI 6005 3300 and claimed exemption under Notification No. 30/2004 dated 09.07.2004³ which exempts goods under Chapter 60 subject to non-availment of CENVAT credit.

3. The contention of the department is that aforesaid goods fall under Chapter 39 of the Central Excise Tariff Act, 1985⁴ and not under Chapter 50 to 63.

4. The Principal Commissioner accepted the classification of the respondent and 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. CETI
3. the Exemption Notification
4. the Tariff Act
5. (2023) 8 Centax 179 (Tri. – Del.)

5. 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”.

6. 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.”

7. 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.

8. 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 :-

“7.1 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 viz. FIBC under sub heading No. 63053200 and cleared them on payment of applicable duty @ 8% to 4% whereas it was the contention of the department that the said goods are classifiable under sub heading 39231090 of the Central Excise Tariff Act 1985 and the applicable duty thereon should be@ 14% to 8%. 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., FIBC manufactured by the Noticee was initially decided in favour of the Noticee vide CESTAT Final Order No. 51048/2022 dated 01.11.2022 wherein Hon'ble CESTAT observed as under:-

7.2 Thus in view of above observations of Hon'ble CESTAT the Noticee was correctly classifying their goods under Chapter Heading 63 and the said goods do not merit classification under Chapter Head 39 as contended by the department. Against the said order of CESTAT, the department preferred appeal before the Hon'ble Supreme Court and pending the Deptt. appeal, put the SCNs mentioned at paras 3 and 4 above, in the Call book.

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

2. Heard the learned counsel appearing for the appellant.

3. No case for interference is made out. The Civil Appeal is dismissed

7.4 Accordingly, in view of above after thorough examination of the case and considering the facts, circumstances and the noticee's response and judgements 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 Hon'ble CESTAT. Notably, the CESTAT had explicitly affirmed that the Noticee's classification was correct. Thus in the matter I find that that the goods manufactured by the

Noticee are correctly classifiable under Chapter head 63 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.

8. 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:

S) Union of India Vs. Kamlakshi Finance Corporation Ltd. reported in 1991 (55) ELT 433 (SC); and

ii) Claris Life sciences Ltd. Vs Union of India reported at 2013 (298) E.L.T.45 (Guj.)"

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

10. The classification of "Woven Sacks", "FIBC" and "Wrap Knit Fabric" are involved in these appeals. The Principal Commissioner held that classification would be under CETI 6305 3200, CETI 6005 33 00 and CETI 6005 2300 as claimed by the respondent and not under Chapter 39 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 a particular Item 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.

11. In view of the binding decisions of the Tribunal on the issue of classification of the products involved in these appeals, 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 four show cause notices issued to the respondent. The appeals filed by the department are frivolous and deserve to be dismissed.

12. All the four appeals filed by the department are, accordingly, dismissed.

(Dictated and pronounced in the open court)

(JUSTICE DILIP GUPTA)
PRESIDENT

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

Kritika