CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

CUSTOMS APPEAL NO. 52254 OF 2015

(Arising out of Order-In-Original No. 72-73/2015/SRB/Commissioner(import) dated 27.02.2015 passed by the Commissioner of Customs (Import), New Delhi)

M/s. Ravindra Heraeus Pvt. Ltd. ...... **Appellant**
A-196(A), F-Road, M.I.A, Madri,
Udaipur, Rajasthan, 313 003

Versus

Commissioner Of Customs-(Imports) ...... **Respondent**
New Customs House, Near IGI Airport,
New Delhi- 110037

APPEARANCE:
Shri B.L. Narasimhan, Shri Ashwani Bhatia and Ms. Srishti Bajaj, advocates for the appellant
Shri Shiv Shankar, authorised representative of the department

CORAM:
HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

Date of Hearing/Decision: October 08, 2025

FINAL ORDER NO. 51564/2025

JUSTICE DILIP GUPTA:

M/s Ravindra Heraeus Pvt. Ltd.[1] has filed this appeal for quashing the order dated 27.02.2015 that adjudicates both the show cause notice dated 19.03.2014 for two Bills of Entry filed on 03.6.2010 and 05.02.2011, and the show cause notice dated 11.06.2014 issued for 58 Bills of Entry filed between 03.02.2010 and 22.03.2012. The Commissioner has denied the claim of the appellant seeking exemption from payment of additional duty of customs[2]

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1. **the appellant**
2. **CVD**

under Serial No. 25 of the Notification dated 01.03.2006 or Serial No. 193 of the Notification dated 17.03.2012. The Commissioner has, accordingly, directed for recovery of CVD with interest and penalty.

2. The appellant is inter-alia engaged in import of Platinum Powder/Sponge and Platinum-Rhodium Alloy Powder/Sponge for manufacturing of ingots, catalyst gauzes and wire mesh.

3. The appellant imported the goods by classifying the same under Customs Tariff Item[3] 7110 19 00 and claimed exemption from payment of CVD under Serial No. 25 of the Notification dated 01.03.2006 or Serial No. 193 of Notification dated 17.03.2012.

4. An investigation was initiated by the Directorate of Revenue Intelligence, Mumbai[4] on such imports. This resulted into issuance of the two show cause notices by the Additional Director General of DRI, Mumbai proposing a demand of differential CVD with interest and penalties. The show cause notices proposed to deny the exemption from payment of CVD availed by the appellant under the aforesaid two Notifications on the ground that the impugned goods were not in their primary form, but appeared to be finished goods.

5. The details of the two show cause notices are as follows:

S.No.	**Date of SCN**	**Goods in the SCN**	**Amount involved (Rs.)**
SCN No.1	19.03.2014	Platinum-Rhodium Powder	1,73,55,161/-
SCN No. 2	11.06.2014	Platinum Powder	25,52,96,172/-
Total			**27,26,51,333/-**

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3. CTI
4. DRI

6. The appellant denied the allegations made in the two show cause notices in the two replies dated 04.07.2014 and 12.08.2014.

7. The Commissioner however, passed a common order dated 27.02.2015 confirming the demand of differential CVD with interest and penalty.

8. It is against this order, this appeal has been filed.

9. Shri B.L. Narasimhan, learned counsel for the appellant assisted by Shri Ashwani Bhatia and Ms. Srishti Bajaj made the following submissions:

(i) Benefit of Exemption Notifications is available to the appellant as all the conditions of the Notifications have been complied with;

(ii) Both Platinum Powder and Platinum-Rhodium Alloy Powder, qualify as platinum under Chapter 71 of the Customs Tariff Act. An alloy containing 2% or more, by weight, of platinum is to be treated as an alloy of platinum and such alloy of platinum is to be classified as/with platinum in the Sub-Headings of CTH 7110. In the present case, the appellant has imported Platinum Rhodium alloy powder only through Bills of Entry dated 05.02.2011 and 03.06.2010 mentioned in the first show cause notice. The content ratio of Platinum and Rhodium is 83.33:16.67 in case Bills of Entry dated 05.02.2011 and 80:20 in case of Bills of Entry dated 03.06.2010. As the goods predominantly comprise of platinum powder (approximately 80%), they are to be treated as platinum alloy only. In this connection, reliance has been placed on the decision of the Tribunal in **Tempsens Instruments (I) P. Ltd.** vs. **Commr.**

Of Cus. (Import), New Delhi[5] wherein the Tribunal held that "Platinum" used in the Exemption Notification covers Platinum-Rhodium alloy;

(iii) The second show cause notice comprises Bills of Entry in which 100% platinum powder has been imported, which is in primary form. The same is, therefore, Platinum only. This issue stands concluded by the Circular dated 19.11.1998 issued by the Central Board of Indirect Taxes and Customs and also stands concluded by the decisions of the Tribunal in **Additional Director General (Adjudication)** vs. **Johnson Matthey India Private Ltd**[6]. and **Hindustan Platinum Private Limited** vs. **Principal Commissioner of Customs**[7];

(iv) The extended period of limitation could not have been invoked in the facts and circumstances of the case; and

(v) Neither interest could have been demanded from the appellant nor penalty could have been imposed.

10. Shri Shiv Shankar, learned authorized representative appearing for the department, however, supported the impugned order and submitted that it does not call for any interference in this appeal.

11. The submissions advanced by the learned counsel for the appellant and the learned authorized representative appearing for the department have been considered.

12. It is not in dispute that the appellant imported Platinum Powder/Sponge and Platinum-Rhodium Alloy Powder/Sponge for manufacture of the final products and claimed exemption from

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5. 2017 (358) E.L.T. 1059 (Tri.-Del.)
6. Customs Appeal No. 86997 of 2016 decided on 30.03.2023
7. Customs Appeal No. 86318 of 2016 decided on 20.12.2023

payment of CVD under the two Notifications dated 01.03.2006 and 17.03.2012, which are identically worded.

13. The relevant portion of the Notification is reproduced below:

S.No.	**Chapter Or heading or sub-heading or tariff item of the First Schedule**	**Description of the excisable goods**	**Rate**	**Condition**
(1)	**(2)**	**(3)**	**(4)**	**(5)**
25/193	71	Silver, platinum, palladium, rhodium, iridium, osmium and ruthenium in their primary forms, that is to say, **any unfinished or semi-finished form including** ingots, bars, blocks, slabs, billets, shots, pellets, rods, sheets, foils and wires.	Nil	-

14. In respect of the product Platinum-Rhodium Alloy Powder/Sponge imported by the appellant through the two Bills of Entry dated 05.05.2011 and 03.06.2010, it needs to be noted that it predominantly comprises of platinum powder to the extent of approximately 80% and hence, would have to be treated as Platinum Alloy.

15. In this connection, reference can be made to the decision of this Tribunal in **Tempsens Instruments (I) P. Ltd.** The Tribunal held that the presence of Rhodium in the imported goods would not change the classification of the product as anything other than Platinum. The relevant portion of the decision is reproduced below:

"**3.** The classification of the product and the description of the product are appropriately applicable to the impugned goods imported by the appellant. We find no reason for denial of the exemption in terms of the above entry to the appellant. **We note in the appeal by the Revenue, it is contested that while the description of the goods is "Platinum" the exemption cannot be made available to Platinum- Rhodium (alloy) as imported by the appellant/assessee. The objection of the Revenue is that while the classification of the imported item is as per entry in the exemption notification, the description will not match. We are not in agreement with such proposition. Admittedly, the product mentioned in the notification as well as the product as imported by the appellant/assessee are to be classified as Platinum under Heading 71101900. The Platinum/Rhodium wire imported by the appellant/assessee has been classified as Platinum (wires) under the Tariff Heading 71101900 and, as such, the exemption claimed by the appellant/assessee is rightly available.** The impugned order cannot be faulted on this.

4. The impugned order rejected the claim for exemption only on the ground that the exemption benefit is available only to Platinum in primary form and will not be available to Platinum alloys. Here, we note that the Appellant Authority erred in examining

> the description of the goods mentioned in column 3 of the entry in the notification. First of all, the description clearly states that Platinum, Palladium, Rhodium, etc. In their primary form, that is to say, any unfinished or semi-finished form including, ingots, foils and wires it is very clear that Platinum/Rhodium wires are eligible for such concession. The notification borrows the language of Heading 71.10 itself and, as such, we find no reason for denial of the exemption. Here we note that in terms of Chapter Note 4(B) of Chapter 71, the expression Platinum means Platinum, Iridium, Platinum and Rhodium and Ruthenium. **The presence of Rhodium in the imported wire does not change the classification of the product as anything other than Platinum**."
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> **(emphasis supplied)**

16. Such being the position, the exemption would clearly be available to the appellant under the two Notifications.

17. The second show cause notice dated 11.06.2014 is in respect of Platinum Powder.

18. The Notifications require that the precious metal should be 'in their primary forms'. The Notifications also give meaning to the term 'primary forms', to be in any unfinished or semi-finished form including ingots, bars, blocks, slabs, billets, shots, pellets, rods, sheets, foils and wires.

19. The goods imported by the appellant are in powder form, which would be in a primary form. As has been explained in the manufacturing process and technical characteristics, the appellant

imports the goods and then melts the goods to manufacture ingots. Ingots by name are specifically mentioned in the two Notifications as an example of unfinished or semi-finished goods. Thus, when ingots are recognized as a primary form of metal i.e., unfinished or semi-finished form, it necessarily follows that the goods being the raw material for the manufacture of ingots, must also be regarded as an unfinished or semi-finished form of metal.

20. Thus, the product would have to be treated to be in 'primary form metal' and would be eligible for exemption under the two Notifications.

21. In this connection, it would also be pertinent to refer to the Circular dated 19.11.1998 issued by CBIC which states that Platinum Powder will be exempted under Serial No. 194 of predecessor Notification dated 02.06.1998 which is identical to the Notifications involved in the present matter. The relevant portion of the Circular is reproduced below:

> "**2.** The matter has been examined. While articles of precious metals falling under Chapter 71 are subject to Nil rate of duty under S. No. 193, the precious metals in unfinished and semi-finished form are subject to Nil rate of excise duty under S. No. 194 of Notification No. 5/98-CE dated 2-6-1998. The above exemption is unconditional and is applicable to the said goods irrespective of whether they are manufactured first time or re-made, re-conditioned or re-processed. Accordingly, it will be incorrect to charge duty on such goods under S.No. 36 of the same notification

> ......
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> **4.** Accordingly, it is clarified that the exemption from excise duty under S. No. 193 and 194 of Notification No. 5/98-CE shall not be denied to goods of precious metals such as catalysts, ingots, powder and sponge falling under Chapter 71 when re-made out of used or spent catalysts of such precious metals, re-conditioned or re-fabricated or recovered from old or used articles of precious metals or subjected to any other process."

22. The aforesaid Circular dated 19.11.1998 clearly holds that powder is an 'unfinished and semi-finished' form of metal.

23. In **Johnson Matthey India** the appellant had imported 'Platinum Sponge'. The department denied the benefit of the Exemption Notification holding that the product was not in the primary form. After a careful analysis of the provisions of the two Notifications and the earlier Notifications issued in this context from 1988 onwards the Tribunal held that Platinum Sponge is a form in which Platinum metal first emerges during the process of manufacture and hence it is one of the primary forms of platinum. The relevant portions of the decision are reproduced below:

> "**4.6** The same entry continued till the supersession of Notification No. 12/2012 dated 17.03.2012, at the time of introduction of GST. The above clearly explains that from 1994 onwards the notification has been issued exempting the impugned goods and the wording 'used' in the notification then till the notification under consideration remains the same. The

> Ministry itself was always of the view that exemption needs to be granted to the metal in the form it emerges during a refining process, whether from ore concentrate or recycled material, the same could not have been denied. From perusal of the entry, it is evident that exemption has been granted to all the forms in which these goods are imported. In view of the above circular, the contentions raised by the Revenue which go contrary to the circular issued by the Board cannot be justified."

24. This issue was again examined by the Tribunal in **Hindustan Platinum.** The issue that arose for consideration before the Bench was whether Platinum Metal or Platinum Sponge would be eligible for exemption from payment of CVD under the two Notifications. After placing reliance upon the earlier decision of the Tribunal in **Tempsens Instruments**, the Tribunal held:

> "**11.** In view of the foregoing discussions and analysis, we conclude that the impugned goods 'Platinum Metal or Platinum Sponge' under consideration imported by the appellants are correctly classifiable under tariff item 7110 11 10 as platinum in 'unwrought form' and are eligible for full exemption from Additional Duty of Customs (CVD) under Notifications No. 05/06-C.E. dated 01.03.2006 (Sl. No. 25) and No. 12/2012-C.E., dated 17.03.2012 (Sr. No. 193), as amended. Therefore, we are of the considered view that the impugned order passed by the learned Principal Commissioner of Customs (imports) is liable to be set aside, as it does not

> stand the scrutiny of law. Therefore, by setting aside the impugned order dated 02.03.2016, the appeal is allowed in favour of the appellants."

25. It has, therefore, be held that Platinum Powder imported by the appellant would also be entitled for exemption from payment of CVD under the two Notifications.

26. In this view of the matter, it would not be necessary to examine the contention raised by the learned counsel for the appellant that the extended period of limitation could not have been invoked in the facts and circumstances of the case.

27. The impugned order dated 27.02.2015 passed by the Commissioner of Customs (Import), New Delhi is, accordingly set aside and the appeal is allowed.

(Order dictated in the open court)

(JUSTICE DILIP GUPTA)
PRESIDENT

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

Kritika