CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.

PRINCIPAL BENCH,
COURT NO. I

E-HEARING

CUSTOMS APPEAL NO. 55154 OF 2023

[Arising out of the Order-in-Appeal No. CC (A)/Customs/D-II/IMP/ICD/TKD/ 12/2023-24 dated 11/04/2023 passed by The Commissioner of Customs (Appeals), New Delhi – 110 037.]

M/s Om Sai Handlooms, **Appellant**
D-561, Sector-12, Huda,
Panipat, Haryana – 132 103.

VERSUS

Commissioner of Customs (Appeals), **Respondent**
New Customs House, Near IGI Airport,
New Delhi – 110 037.

APPEARANCE

Shri Manish Saharan, Advocate – for the appellant.
Shri Girijesh Kumar, Authorized Representative (DR) – for the Department

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

FINAL ORDER NO. 50624/2026

DATE OF HEARING/DECISION : 19.03.2026

P.V. SUBBA RAO

This appeal is filed to assail the order dated 11.04.2023[1] passed by the Commissioner of Customs (Appeals) in which he upheld the order-in-original dated 13.08.2019 passed by the Assistant Commissioner in which he confirmed the proposals made in the show cause notice dated 16.02.2018 "issued to the

1. impugned order

importer" proposing to reject the classification "heat transfer printing paper" imported by the appellant under 5 Bills of Entry under **Customs Tariff Item[2] 4908 90 00** and to re-classify them under **CTI 4809 90 00** and recover the differential customs duty under section 28 (1) of the Customs Act, 1962[3] along with interest under section 28AA of the Act.

2. We have heard learned counsel for the appellant and learned authorized representative appearing for the department and perused the records.

3. Learned counsel for the appellant submits that they were never served the show cause notice said to have been issued by the Assistant Commissioner. Learned authorized representative has placed on record a copy of the show cause notice dated 16.02.2018. The show cause notice does not indicate that it was served. According to learned counsel for the appellant they had imported transfers (Decalcomanias) which they correctly classified under **CTI 4908 90 00**. It is his submission that the learned Assistant Commissioner and the Commissioner (Appeals) erred in treating the goods imported by them as copying or transfer papers and classifying them under **CTI 4809 90 00**. He submits that difference between the two goods is that while Decalcomanias are pre-printed and just need to be placed on the surface and heated to transfer the pictures, **CTI 4809 90 00** covers paper which can be printed and then such pictures can be transferred. It is his submission that what they had imported was

3. CTI
4. the Act

not paper which needed to be printed, but pre-printed decalcomanias which were correctly classified under **CTI 4908 90 00**.

4. Learned authorized representative for the Revenue vehemently supported the impugned order and asserted that it calls for no interference. We find that the Commissioner (Appeals) has recorded his findings in paragraphs 5.2 and 5.3 of the impugned order which are reproduced below :-

> "5.2 The issue involved is classification of goods declared as "Heat Transfer Printing Paper".
>
> 5.3 I note that the Adjudicating Authority had examined in detail the Contesting entries. CTH 4908 as declared by the appellant pertains to "Transfer (decalcomanias)". The explanatory Notes have explained this as items consisting of pictures, letters etc. The appellant has the other hand imported "Heat Transfer Printing Paper" on which printing is yet to be done. The appellant has not submitted any evidence to contend that the goods were preprinted with picture/ designs/letter as required for Decalcomanias as per explanatory notes. Evidently the goods were plain "Heat Transfers Printing Paper" on which designs were yet to be printed for transfer to other surfaces. Thus, I find no error in the impugned order".

5. From the above, it is clear that there is no difference between the appellant and the department on the type of goods which are covered under the two CTIs. What is in dispute is whether the goods imported by the appellant under the disputed 5 Bills of Entry were Decalcomanias or papers which were meant to be printed. At this stage, we cannot examine this issue because the Bills of Entry and other documents are not before us. The appellant also could not present its case with documents and

evidence before the Assistant Commissioner because the show cause notice was not served. The description of the goods in the Bills of Entry was "heat transfer printing papers" which is not clearly covered under either of the two CTIs. Such being the case, this a fit case to be remanded to the Assistant Commissioner to decide the matter on merits after giving an opportunity of being heard to the appellant after filing reply to the show cause notice along with any evidence in support of its stand.

6. In view of the above, the impugned order is set aside and the matter is remanded to the Assistant Commissioner. As the matter is very old, we expect that the Assistant Commissioner to pass the order within a period of two months from the date on which a copy of this order served on him by either side.

7. The appeal is allowed by way of remand to the Assistant Commissioner.

(Dictated and pronounced in open court.)

(JUSTICE DILIP GUPTA)
PRESIDENT

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

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