CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
New Delhi

PRINCIPAL BENCH – COURT NO.1

Customs Appeal No. 55039 Of 2023

[Arising out of Order-in-Original No. 65/2022-23/SimmiJain/Principal Commissioner dated 07.03.2023 passed by the Principal Commissioner of Customs, New Delhi]

Graziano Transmission India Private Limited : Appellant
Plot No. 14, Udyog Kendra, Greater Noida
Gautam Buddha Nagar, Uttar Pradesh-201304

Versus

Principal Commissioner of Customs : Respondent
New Delhi ACC Import
Air Cargo Complex Import, New Customs
House, Near IGI Airport, New Delhi 110037

APPEARANCE:
Shri Aashish Mangla and Shri Rishabh Galhotra, Chartered Accountant for the Appellant
Shri Girijesh Kumar, Authorized Representative for the Respondent

CORAM :

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER No. 50994/2026

Date of Hearing:18.05.2026

Date of Decision:18.05.2026

JUSTICE DILIP GUPTA

This appeal is directed against that part of the order dated 07.03.2023 passed by the Principal Commissioner that confirms the differential duty amounting to Rs. 25,58,505/- against the appellant in respect of goods imported Bills of Entry, details of which have been provided in Table-III, under section 28(4) of the Customs Act, 1962[1]

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1 **The Customs Act**

with penalty under section 114 of the Customs Act. The Commissioner, however, dropped the demand of Rs. 53,49,861/- in respect of remaining Bills of Entry.

2. It transpires from the records that the appellant imported various items through 215 Bills of Entry and described the goods/items as "Auto parts for captive consumption/Auto parts units" and availed the benefit of Serial No. 530A of Notification No.50/2014-Cus dated 30.06.2017[2] and paid basic customs duty at the concessional rate of duty of 10%. It needs to be noted that the benefit of Serial No. 530A of the Exemption Notification is available to all goods other than parts and accessories of motor vehicles of heading 8702 to 8704.

3. The issue involved in this appeal is whether the parts imported by the appellant would be entitled to the benefit of the Exemption Notification. The Principal Commissioner has granted benefit to the appellant in respect of twenty one Finished Goods, but the benefit has been denied in respect of Finished Goods No. 312705AA3 for the reason that the appellant had claimed that the imported parts were also used in tractor/Special Purpose Vehicle, but details of the said Finished Goods number was not mentioned in Annexure-I to the reply or in the Chartered Accountant Certificate annexed with the reply to support the claim that the appellant had supplied the products to manufacturers goods falling under Customs Tariff Heading 8701 and Customs Tariff Heading 8705.

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2 The Exemption Notification

4. The relevant portion of paragraphs 13.1 and 13.09 of the order passed by the Principal Commissioner are reproduced below:-

> "13.8 Further, their customers profiles viz of Carraro India Limited, Same Deutz Fahr India (p) Ltd, AGCO Agro Machinery, China, Tractor & Farm Equp Ltd, Dana Graziano, Italy, Axletech India Pvt Ltd, Pune etc. have been checked and found that they were the manufacturers of Agriculture machinery and special purpose vehicles. Thus on the basis of the aforesaid verification through documents submitted by the importer along with CE certificate and the fact that these documents were produced before audit but have not been challenged in the notice, I hold that benefit of Sr. no 530A provided under Notification no. 50/2017-Cus dated-30.06.2017 (as amended by Notification no. 06/2018-Customs dated-02.02.2018) in respect of parts imported as mentioned in above table was correctly availed by the noticee and demand raised in Show cause of notice in respect of bills of entry for the impugned goods imported was liable to be dropped.
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> 13.9 **At the same time, on perusal and analysis of Annexure-I & Annexure-II submitted by the noticee, I observe that in Annexure -II, there was mention of Finished good no. (FG) 312705AA3 in whose manufacture, some of the imported parts (Raw material numbers) have been claimed to have been used however the details of said FG number has not been found mentioned in Annexure -I nor in the CE certificate in support of their claim to have been supplied to manufacturers of goods falling under 8701 and 8705. Therefore, in absence of any evidence to substantiate that the said FG contained the impugned raw material or that it has been supplied to manufacturers of vehicles falling under CTH 8701 and 8705, I hold that benefit of Sr. no 530A provided under Notification no. 50/2017-Cus dated-30.06.2017 (as amended by Notification no. 06/2018-Customs dated-02.02.2018) in respect of parts imported under the cover of following BoEs as detailed below used in the manufacture of said FG number has been incorrectly availed by the notice."**
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> (emphasis supplied)

5. Ms. Aasmee Mangla, learned consultant for the appellant assisted by Mr. Rishabh Galhotra submitted that though it is correct that in Annexure-I and the Chartered Accountant Certificate, the

Finished Goods no. 312705AA3 was not mentioned, but it is also true that the chart submitted by the appellant in reply to the audit objections did mention Finished Goods No. 312705AA3. Learned consultant also pointed out that it was only because of a mistake that in Annexure-I and the Chartered Accountant Certificate, the relevant pages were not included, though the reply to the audit objection was also a part of the reply to the show cause notice. In this connection, learned consultant has placed the Chartered Accountat Certificates from which it is clear that only 21 Finished Goods Certificates were enclosed and the last certificate relating to Finished Goods no. 312705AA3 was not enclosed. The said certificate has now been enclosed at page no. 182 of the Appeal Memo.

6. Mr. Girijesh Kumar, learned authorized representative for the department, however, submitted that a categorical findings has been recorded by the Principal Commissioner that the relevant Finished Goods no. 312705AA3 was not enclosed either in Annexure-I of the reply to the show cause notice or in the Certificate issued by the Chartered Accountant and so the appeal should be dismissed.

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

8. It is seen that the finding recorded by the Principal Commissioner is correct in the sense that Annexure-I enclosed to the reply to the show cause notice does not contain Finished Goods no. 312705AA3 and the Certificate of the Chartered Engineer regarding

Finished Goods no. 312705AA3 was also not enclosed by the appellant. However, a perusal of the reply submitted by the appellant to the objections raised by the audit, and which were part of the reply to the show cause notice, clearly show that the Finished Goods number 312705AA3 was mentioned. The appellant failed to include this number in Annexure-I to the reply. This apart, the Chartered Engineer Certificate in respect of this Finished Goods no. 312705AA3 is also enclosed at page no. 182 of the appeal memo and it does appear that it was missed out by the appellant in the reply to the show cause notice, though all the other Chartered Engineer Certificates were enclosed. The fact that this Finished Goods number was included in the reply filed by the appellant to the audit objection clearly establishes that the appellant was entitled to the benefit of Serial No. 530A of the Exemption Notification.

8. The impugned order dated 07.03.2023 to the extent it confirms the differential duty amount of Rs. 25,58,505/- with penalty cannot, therefore, be sustained. It is, accordingly, set-aside and the appeal is allowed.

(Order dictated and pronounced in the open Court)

(JUSTICE DILIP GUPTA)
PRESIDENT

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

G.Y.