

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH: KOLKATA**

Customs Appeal Nos. C/31/09 & C/29/2009

(Arising out of Order-in-Original No.26/Cus/ CC (P)/WB/2008 dated - 31/10/2008 (Chittaranjan Saha), and Order-in-Original No.20/CUS/CC (P)/WB/2008 dated -22/10/2008 (Pradeep Intrnational) passed by the Commissioner of Customs (Prev.),W.B., Kolkata)

- 1) Chittaranjan Saha
- 2) M/s. Pradeep International

Applicant (s)/Appellant (s)

Vs.

CC (Prev.) Kolkata

Respondent (s)

Appearance:

Shri A. Chakraborty, Advocate for the Appellant (s)
Shri S.Guha, A.C. (A.R.) for the Respondent (s)

CORAM:

**HON'BLE SHRI JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE SHRI V.PADMANABHAN, MEMBER (TECHNICAL)**

Date of Hearing/Decision :- 03/05/2018

ORDER NO: FO/75882-75883/18

Per Justice (Dr.) Satish Chandra

Both the appeals have been filed by the appellants against Order-in-Original No.26/Cus/ CC (P)/WB/2008 dated -31/10/2008 and Order-in-Original No.20/CUS/CC (P)/WB/2008 dated -22/10/2008 passed by the Commissioner of Customs (Prev.),W.B., Kolkata),

2. In both the appeals, the dispute is identical hence, both the appeals are disposed off by this consolidated order for the sake of convenience.

3. Brief facts of the case are that the appellants had imported readymade garments from Bangladesh through bills of entry. The subject goods were declared as Jackets of different descriptions and were classified under CTH 6201 99 90. Duty was paid and department has accepted. However, at a later stage, department classified the goods under CTH 6204 33 00.

4. Being aggrieved, the appellants have filed the present appeals

5. In the instant case, sample was drawn after 2½ years and it was observed that the appellant has wrongly classified the goods but fact remains that by the time the goods became obsolete.

6. At the time of clearance of the goods, the Department has accepted the classification. Duty was paid which was accepted by the Department but at a later stage (Two and half years), the Department has reopened the assessment and classified under a different Heading but without having any material in hand. No corroborative evidence has been collected by the Department. In the absence of corroborative evidence, denied the declaration after a period of Two and half years is not justifiable. Hence, we find no reason to sustain the impugned order and the same is hereby set aside.

7. In the result, the appeals filed by the appellants are allowed.

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(Dictated and pronounced in the Open Court)

**Sd / -
(Justice Dr. Satish Chandra)
President**

**Sd / -
(V.Padmanabhan)
MEMBER (Technical)**

k.b/-

