

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH – COURT NO. 1
Customs Appeal No. 75810 of 2018**

CO-76625/18

(Arising out of Order-in-Original No.KOL/CUS/COMMISSIONER/PORT/60/2017 dated 29.11.2017 passed by Commissioner of Customs(Port), Kolkata)

Commissioner of Customs (Port), Kolkata
15/1, Strand Road, Custom House, Kolkata-700 001.

: Appellant

VERSUS

M/s. JSR Asia Imports Pvt. Ltd.
22, BRB Basu Road, Canning Street, 3rd Floor, Kolkata-
700 001.

: Respondent

APPEARANCE:

Shri Subrata Debnath, Authorized Representative for the Appellant

Shri Anasua Karmakar, Authorized Representative for the Respondent

CORAM:

**HON'BLE SHRIASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)**

FINAL ORDER NO.77129/ 2024

DATE OF HEARING :07.10.2024

DATE OF DECISION:07.10.2024

Order : [Per Shri Ashok Jindal]

Revenue is in appeal against the impugned order and Respondent has also filed cross objection.

2. The Ld. Consultant appearing on behalf of the Respondent submits that the issue has already been decided by this Tribunal in the case of Commissioner of Customs(Port) Vrs. M/s. Silpha Finvest P. Limited vide Final Order No. 75376/2024 dated 29.02.2024. Therefore, issue is no more res integra.

3. In that circumstances impugned order is to be set aside.

4. Heard the parties. Considering the fact that the issue in the matter was examined by this Tribunal in

the case of M/s. Silpha Finvest P. Limited (Supra) wherein this Tribunal observed as under:

"6.1. In the Bill-of-Entry, the respondent has described the goods as "Bed Sheet (100% Polyester)" and that too in numbers. Chapter 63 deals with the following goods:-

" Other made up textile articles; sets; worn clothing and worn textile articles; rags"

While Chapter Heading 6304 deals with:-

"63.04-Other furnishing articles, excluding those of heading 94.04.

-Bedspreads"

....."

Admittedly, the goods in question are Bed spreads i.e. , Bed sheets. Although made of 100% polyester yarn, it does not mean that the article loses its identity as Bed spreads/Bed sheets, which are properly classifiable under Customs Tariff Heading 6304.

6.2. However, the Revenue has sought to re-classify the above goods under Customs Tariff Heading 5407, which classifies:-

"54.07-Woven fabrics of synthetic filament yarn, including woven fabrics obtained from materials of heading 54.04."

7. We admit that the articles which have been imported by the respondent are woven fabric of synthetic filament yarn, but they are Bed spreads/Bed sheets and quantity of the goods in numbers has been described by the respondent. In the circumstances, the merit classification of the

impugned goods is under CTH 6304 of the Customs Tariff Act. Therefore, we classify the impugned goods as 'Bed spreads' (Bed sheets) classifiable under CTH 6304 of the Customs Tariff Act. In view of this, we hold that the impugned goods have been correctly classified by the respondent and the same are not liable for confiscation. We further hold that the respondent is liable to pay duty by classifying the impugned goods under CTH 6304 of the Customs Tariff Act and no penalty is imposable the respondent. No redemption fine is payable by the respondent.

8. In view of the above, we dismiss the appeal filed by the Revenue and accordingly dispose of the cross-objection filed by the respondent."

5. As the issue has already been decided holding that the merit classification of this goods is under CTH 6304 of the Customs Tariff Act as Bed sheets. Therefore, we hold that no penalty is imposable on the Respondent. In these terms we reject the appeal filed by the Revenue and Cross Objection filed by the Respondent is also disposed off in the above terms.

(Operative part of the order was pronounced in open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)