

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

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 75490 of 2021

(Arising out of Order-in-Appeal No. KOL/CUS(Port)/AKR/282/2021 dated 12.03.2021 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Ravi Sarda, Proprietor of M/s. Mahesh Silks : Appellant

Plot No. 32, Giri Nagar Extension,
Birdopur, Varanasi,
Uttar Pradesh – 221 010

VERSUS

Commissioner of Customs (Port)

: Respondent

Custom House, 15/1, Strand Road,
Kolkata – 700 001

APPEARANCE:

Shri Arijit Chakraborty, Advocate for the Appellant

Shri Subrata Debnath, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)

HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 75085 / 2025

DATE OF HEARING: 04.11.2024

DATE OF DECISION: 21.01.2025

ORDER: [PER SHRI K. ANPAZHAKAN]

The present appeal has been filed against the impugned Order-in-Appeal No. KOL/CUS(Port)/AKR/282/2021 dated 12.03.2021 passed by the Commissioner of Customs (Appeals), Kolkata, wherein the Ld. Commissioner (Appeals) has upheld the Order-in-Original No. KOL/CUS/ADC/68/Gr.-VI/2019 dated 28.06.2019, passed by the Ld. Additional Commissioner of Customs (Port), Appraising Group-VI, Customs

House, Kolkata. In the Order-in-Original dated 28.06.2019, the adjudicating authority has reclassified the goods imported by Shri Ravi Sarda (hereinafter referred as the "appellant") under the CTH 14049090, as against the classification declared by the appellant/importer in the Bill of Entry under the CTH 96031000. Accordingly, the Id. adjudicating authority has confirmed the demand of import duty of Rs.4,59,025/- under Section 17(4) of the Customs Act, 1962, after denial of duty benefit as claimed by the appellant for BCD and IGST.

2. Briefly stated facts of the case are that the appellant Shri Ravi Sarda is the Proprietor of M/s. Mahesh Silks, Uttar Pradesh and is engaged in the business of export-import under valid IEC No.1507002815. The appellant imported a consignment of "Broom Sticks (between 140 to 160 cm.)" from M/s. Pt. Royal Exotic Indonesia under their Invoice No.011/INV/REI/IV/2019 dated 14.04.2019 and filed Bill of Entry No.3106702 dated 04.05.2019 for clearance of the imported goods. In the Bill of Entry, the goods were classified by the appellant under the Chapter sub-heading 96031000 of Customs Tariff Act, 1975 in accordance to the import invoice and other documents including country of origin certificate. In the said Bill of Entry, the appellant had claimed the benefit of Sl. No.1580 (I) of Notification No.46/2011-CUS dated 01.06.2011 with respect to BCD and Sl. No.144 of Notification No.02/2017-Cus. towards exemption of IGST.

2.1. In EDI system, a query was raised by the assessing authority for explanation of the goods and subsequently, on the basis of Examination Report, it

was alleged that the goods were mis-declared and classified wrongly by the appellant under the CTH 96031000. The appellant was also asked to get NOC from PQ.

2.2. The appellant was issued with a Show Cause Notice under Section 17(4) and Section 124 of the Customs Act, 1962 vide File No.S37C(Misc)-41/2019 A(6) dated 06.06.2019 by the Ld. Additional Commissioner of Customs for Appraising Group-VI wherein it was alleged that the imported goods were mis-declared with respect to its classification under CTH 96031000 and the same is rightly classifiable under the CTH 14049090 attracting duty @ 30% BCD, 5% IGST and 10% SWS. Accordingly, the notice proposed for re-classification and re-assessment of the said goods under Section 17(4) of the Customs Act, 1962. The duty benefits claimed by the appellant under Sl. No.1580 (I) of Notification No.46/2011-CUS dated 01.06.2011 with respect to BCD and Sl. No.144 of Notification No.02/2017-CUS towards exemption of IGST were proposed to be denied. It is proposed for re-assessment and demand of customs duty of Rs.4,59,025/- under Section 17(4) of the Customs Act, 1962. Further, the goods were proposed to be confiscated under Section 111(d) and 111(m) of the Customs Act, 1962 with a penalty under Section 112(a)(i) & (ii) of the Customs Act, 1962 upon the appellant/importer.

2.3. On adjudication, the Ld. Additional Commissioner of Customs (Port), Appraising Group-VI, Customs House, Kolkata, has passed Order-in-Original No.KOL/CUS/ADC/68/Gr.-VI/2019 dated 28.06.2019, re-classifying the goods imported by the appellant

under the CTH 14049090 and confirmed import duty of Rs.4,59,025/- under Section 17(4) of the Customs Act, 1962 after denial of duty benefit as claimed by the appellant under the Notification No. 46/2011-CUS dated 01.06.2011 for BCD and Notification No.02/2017-CUS towards exemption of IGST. While re-assessing the imported goods, the Ld. Adjudicating Authority in the impugned Order had described the goods as "Nipah Long and Short (Broom Sticks)". He had also ordered for confiscation of the goods under Section 111(m) of the Customs Act, 1962 and allowed redemption of the same on payment of fine of Rs.2,00,000/- under Section 125 of the Customs Act, 1962. He also imposed penalty of Rs.45,000/- upon the appellant/importer under Section 112(a)(ii) of the Customs Act, 1962.

2.4. On appeal, the Ld. Commissioner (Appeals) has upheld the demands confirmed in the Order-in-Original dated 28.06.2019. Aggrieved against the confirmation of the above demands in the impugned order, the appellant has filed this appeal.

3. The appellant submits that the Ld. Appellate Commissioner has erroneously held that they have not challenged the classification as proposed by the authority which is factually not correct. They have disputed the change of classification of the imported goods by the authority; initially they filed the Bill of Entry No.3106702 dated 04.05.2019 for clearance of the imported goods under the Chapter sub-heading 96031000 of Customs Tariff Act, 1975 in accordance to the import invoice and the classification of the goods available in the Country of Origin Certificate (COO). They had claimed the benefit of Sl. No.1580

(I) of Notification No.46/2011-CUS dated 01.06.2011 with respect to BCD and Sl. No.144 of Notification No.02/2017-CUS towards exemption of IGST. When the benefit available at Sl. No.1580 under the Notification 46/2011-Cus was not extended to them and the assessing officer proposed the classification of the imported goods under the CTH 14049090, they approached the supplier for another Country of Origin Certificate with the change in the classification for the same goods under the CTH 14049090. They have obtained the revised COO under Ref. 0018320/KTG/2019 dated 15.04.2019, since the benefit of Sl. No. 116(I) under the Notification 46/2011-Cus is available for the CTH 14049090 and IGST exemption is available vide Sl. no. 93B of Notification 2/2017 dated 01.07.2017. Thus, the appellant submits they obtained the revised COO from the supplier second time for the same goods declaring the classification of the goods under the CTH 14049090 as the effective duty payable would be 'NIL' under both the classifications. However, the adjudicating authority and the appellate authority denied the benefit of the exemption for BCD under Sl. No.116(I) under the Notification No. 46/2011-Cus and Sl. no. 93B of Notification No. 2/2017 dated 01.07.2017 for IGST, on the ground that the appellant has misdeclared the goods. The appellant submits that the allegation of mis declaration is ill founded and the substantial benefit available to them under the notification 46/2011-Cus for BCD and 2/2007 dated 01.07.2017 for IGST cannot be taken away in the name of mis declaration. Accordingly, the appellant submits that demand of customs duty by denying the benefit of the above said notifications and confiscating

the goods on the ground of mis declaration is legally not tenable.

3.1. The appellant further submits that the finding of the authorities below that Certificate of Origin under AIFTA issued at a later stage by the authority from the supplying country is not acceptable, is absolutely perverse since the law requires only production of the valid and legal certificate from the Country of Origin for availing the notifiational benefit under AIFTA and when such certificate was available at the time of assessment, the Customs Authorities were duty bound to take cognizance of the same and any arbitral denial of benefit of such certificate is forbidden in law.

3.2. The appellant submits that the Order-in-Original passed by the Adjudicating Authority has travelled beyond the scope of the Show Cause Notice dated 06.06.2019 since the Show Cause Notice nowhere provided or proposed for change of description of the goods under import documents as well as Bill of Entry as "Broom Sticks (between 140 to 160 cm.)", whereas, while passing the Adjudication Order the Adjudicating Authority under the heading "ORDER" had changed the description of the goods as "Nipah long and short (Broom Sticks)" which is legally not sustainable and hence the order is to be considered as *void ab-initio*. The Appellate Commissioner has also continued to uphold the same mechanically when this is settled position of law that the Authority cannot travel beyond the scope of the Show Cause Notice.

3.3. The appellant submits that the change of classification of the imported goods from CTH 96031000 to CTH 14049000 of the Customs Tariff Act, 1975 is absolutely erroneous in law on the part of the

Assessing Authority below. They contend that from the impugned Order it would be evident that in the Examination Report dated 14.05.2019, it was recorded that the imported goods were found as "Vegetable Twigs (Raw material used for manufacture of Jhadu)"; thus, it is evident that the goods under import were nothing but raw material for manufacture of 'Jhadu'. The appellant referred to the definition of 'Broom' as provided in the Collins English Dictionary, wherein 'Broom' is defined as an implement for sweeping consisting of a long handle to which is attached either a brush or straw, bristles or twigs, bound together, or a solid head into which are set tufts or bristles or fiber; CTH 9603 includes "prepared knots and tufts for broom or brush making". It is submitted that Chapter Note 3 of Chapter 96 provides that such expression in heading 9603 applies to materials which are ready for incorporation without division in brooms or which require only such further minor process as trimming to shape at the top, to render them ready for such incorporation; In other words, broom sticks can be of vegetable twigs and are merit classifiable under CTH 96031000 when ready for incorporation without division in broom or when require minor process as trimming to shape at the top to render them ready for such incorporation. The appellant submits that the Examination Report dated 14.05.2019 as reflected at paragraph 3 of the Adjudication Order itself shows that goods are vegetable twigs and raw-materials used for manufacture of 'Jhadu'. When it is admitted that the goods are for manufacture of Jhadu i.e. broom, classification of the same under CTH 96031000 cannot be denied. The appellant submits that the authority

below while considering the essential test for goods to be classified under 96031000 had miserably failed to consider Chapter Note 3 of Chapter 96 of Customs Tariff Act, 1975.

3.4. The appellant submits that the adjudication order is a perfect example of approbate and reprobate on the part of the Assessing/ Adjudicating Authority; By referring to the literal meaning of "broomsticks" as per Cambridge Dictionary, the Adjudicating Authority had held that broom sticks is nothing but broom, however, he had denied classification of the imported goods under CTH 96031000 which specifically includes broom. Further, it is submitted that the Ld. Adjudicating Authority has failed to consider the Chapter Note 3 of Chapter 96, as referred *supra*, which includes articles ready for use in brooms or require minor processing to render them ready for use in broom or brushes.

3.5. The appellant also submits that the question of denial of benefit under Sl. No.1580(I) of Notification No.46/2011-CUS dated 01.06.2011. and Sl. no. 93B of Notification No. 2/2017 dated 01.07.2017 to the appellant in the present case is bad in law; The authorities below have referred to Rule 12 of Determination of Origin of Goods under the Preferential Trade Agreement between the Government of ASEAN and Indian Rules, 2009 to arrive at a conclusion that only in case of theft, loss or destruction of a AIFTA Certificate of Origin, another certificate can be issued. However, it is their contention that Rule 12 of Customs Tariff [Determination of Origin of Goods under the Preferential Trade Agreement between the

Government of Member States of the Association of South East Asian Nations (ASEAN) and the Republic of India] Rules, 2009 does not provide any such criteria for issuance of another certificate. The appellant further submits that issuance of another certificate in the present case does not actually matter; The dispute is about classification of goods and not about its origination; when the origination of the goods is being beyond dispute, benefit of Notification No.46/2011-CUS dated 01.06.2011 and Notification No. 2/2017 dated 01.07.2017 cannot be denied to the importer/appellant. They submit that even if it is admitted that the goods merits classification under the CTH 14049090, then also benefit of Sl. No. 93B of Notification 002/2017-ITR dated 01.07.2017 and Sl. No. 116(I) of Notification No.46/2011-CUS dated 01.06.2011 is available to the importer/appellant. Accordingly, the appellant contended that the denial of benefit of the above said notifications is absolutely erroneous.

3.6. The appellant submits that the order of confiscation of the goods under Section 111(m) of the Customs Act, 1962 is arbitrary, mala fide and highhanded on the part of the Ld. Adjudicating Authority which has been upheld by the Appellate Authority below without any independent consideration or finding. In a case of classification dispute, there cannot be any question of mis-declaration; the goods were available for examination and the same were described and declared at Bill of Entry in accordance to the import invoice and other import documents. The appellant submits that it is not the case of the Department that the appellant/importer had manipulated any document of

import in order to avail any undue benefit. The Proper Officer of Customs can always dispute the classification. Change of classification in the present case does not affect the duty liability also. In such circumstances, the appellant submits that the question of mis-declaration cannot arise. Thus, the appellant submits that the order of confiscation and imposition of fine in lieu of such confiscation is bad in law.

3.7. The appellant further submits that when there is no question of confiscation of imported goods in the present case, the question of imposition of penalty does not arise. Further, at para 12 of the adjudication Order, the Ld. Adjudicating Authority has held that the importer is liable for penalty under Section 112(a)(i) of the Customs Act, 1962, but at Sl. No.(v) under the heading "Order" he has imposed penalty under Section 112(a)(ii) of the Customs Act, 1962 and the Appellate Commissioner remained silent on the appropriate clause under which the penalty was imposed. Accordingly, the appellant submits that such mechanical and arbitrary imposition of penalty, without specifying the appropriate Clause under which it is imposed, is liable to be quashed.

3.8. In view of the above submissions, the appellant argued that there is no merit in the impugned Order-in-Appeal and accordingly, the same is liable to be set-aside.

4. The Ld. Authorized Representative of the Revenue reiterated the findings in the impugned order. He submitted that the appellant admitted the classification of the imported goods under the CTH 14049090 and obtained a revised COO. Thus, he

contends that it is evident that they have mis declared the goods earlier under the CTH 96031000, with a view to avail concessional duty benefits available under the notifications 46/2011-Cus for BCD and 01/2017 for IGST. Accordingly, he submitted that the imported goods has been rightly reclassified and import duty demanded . He supported the confiscation of the goods and imposition of fine and penalties on the ground of mis declaration.

5. Heard both sides and perused the appeal documents.

6. We observe that the appellant imported a consignment of "Broom Sticks (between 140 to 160 cm.)" from M/s. Pt. Royal Exotic Indonesia under their Invoice No.011/INV/REI/IV/2019 dated 14.04.2019 and filed Bill of Entry No.3106702 dated 04.05.2019. In the Bill of Entry, the goods were classified by the appellant under the Chapter sub-heading 96031000 of Customs Tariff Act,1975 and they have claimed the benefit of Sl. No.1580 (I) of Notification No.46/2011-CUS dated 01.06.2011 with respect to BCD and Sl. No.144 of Notification No.02/2017-CUS towards exemption of IGST. The Department was of the view that the goods imported are rightly classifiable under the CTH 14049090 attracting duty @ 30% BCD, 5% IGST and 10% SWS. The impugned order reclassified the imported goods under the CTH 14049090 and confirmed import duty of Rs.4,59,025/- under Section 17(4) of the Customs Act, 1962 after denial of duty benefit as claimed by the appellant under the notification No. 46/2011-CUS dated 01.06.2011 for BCD and 01.2017 dated 01.07.2017 for IGST.

6.1. We observe that classification of the imported is to be determined in accordance with the Section Notes and Chapter Notes and the description of entries available in the headings and sub-headings of the Customs Tariff Act. In the present case, the appellant classified the goods under the CTH 96031000 and the department reclassified the goods under the CTH 14049090. For the sake of ready reference, the respective headings and Sub-headings of both the chapters 9603 and 1404 are reproduced below:

Chapter sub-headings 9603 and 9603 10 00 are reproduced below: -

9603	Brooms, brushes (including brushes constituting parts of machines, appliances or vehicles), hand-operated mechanical floor sweepers, not motorised, mops and feather dusters; prepared knots and tufts for broom or brush making; paint pads and rollers; squeegees (other than roller squeegees)			
9603 10 00	- Brooms and brushes, consisting of twigs or other vegetable materials, bound together, with or without handles - <i>Tooth brushes, shaving brushes, hair brushes, nail brushes, eyelash brushes and other toilet brushes for use on the person, including such brushes constituting parts of appliances :</i>	u	20%	

Chapter Heading of Chapter 14 reads as under:

"Vegetable plaiting materials; vegetable products not elsewhere specified or included"

Chapter sub-heading 1404 of Chapter 14 reads as under: -

1404	Vegetable products not elsewhere specified or included
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6.2. A perusal of the above sub-headings indicates that the Sub-heading 9603 specifically covers brooms, whereas chapter sub-heading 1404 deals with 'vegetable products not elsewhere specified'. In the Order-in-Original, the Ld. adjudicating authority has observed that CTH 1404 covers 'raw stalks of broom'. We observe that chapter 1404 is a residuary sub-heading covering vegetable products not elsewhere specified. We observe that as per the General Rules of Interpretation for classification of goods, a specific heading is always preferred over a general heading. In the present case we observe that the goods imported by the appellant are 'brooms' which is specifically covered under the sub-heading 9603 whereas sub-heading 1404 is a general entry covering vegetable material not elsewhere specified. Resorting to such general entry is required only when there is no specific sub-heading covering the goods. In this case there is a specific sub-heading 9603 is available in the Tariff covering the goods brooms and broomsticks used for making brooms. Thus, on comparison of the description of the entries available in CTH 9603 and CTH 1404, we observe that the imported goods are more appropriately classifiable under Chapter 96 and not under Chapter 14.

6.3. Further, we observe that classification of goods under Chapter 96 are governed by the chapter Notes available in that chapter. In this regard, Chapter Note 3 of Chapter 96 is relevant for classification of the goods under the sub-heading 9603. We observe that the lower authorities failed to refer the Chapter Note 3 of Chapter 96 before excluding the goods from Chapter 96. For ready reference the Chapter Note 3 of Chapter 96 is reproduced below:

"3. In heading 9603, the expression "prepared knots and tufts for broom or brush making" applies only to unmounted knots and tufts of animal hair, vegetable fibre or other material, which are ready for incorporation without division in brooms or brushes, or which require only such further minor processes as trimming to shape at the top, to render them ready for such incorporation."

6.4. We observe that the description in CTH 9603 includes "prepared knots and tufts for broom or brush making". Chapter Note 3 of Chapter 96 provides that such expression in heading 9603 applies to materials which are ready for incorporation without division in brooms or which require only such further minor process as trimming to shape at the top, to render them ready for such incorporation. In other words, broom sticks can be of vegetable twigs and are merit classifiable under CTH 96031000 when ready for incorporation without division in broom or when require minor process as trimming to shape at the top to render them ready for such incorporation.

6.5. We observe that the Examination Report dated 14.05.2019 as reflected at para 3 of the Adjudication Order shows that goods are vegetable twigs and raw-materials used for manufacture of 'Jhadu'. When it is admitted that the goods are for manufacture of Jhadu i.e. broom, classification of the same under CTH 96031000 cannot be denied. Accordingly, we hold that the goods imported by the appellant are appropriately classifiable under the CTH 96031000 and the appellant would be eligible for the benefit of Sl. No.1580 (I) of Notification No.46/2011-CUS dated 01.06.2011 with respect to BCD and Sl. No.144 of Notification No.02/2017-CUS towards exemption of IGST. Thus, we hold that the demand of customs duty of Rs.4,59,025/- along with interest confirmed in the impugned order, by denying the benefits of the above said notifications, is not sustainable and accordingly, we set aside the same.

7. From the impugned order, we observe that the lower authorities have classified the goods imported by the appellant under the CTH 1404 on the basis of the revised Country of Origin Certificate received by the appellant in which the classification of the goods imported has been mentioned as 14049090. In this regard, we observe that issuance of another Country of Origin certificate in the present case does not actually matter. The dispute in this case is about classification of goods and not about its country of origin. When the origination of the goods is being beyond dispute, benefit of Notification No.46/2011-CUS dated 01.06.2011 cannot be denied to the importer/appellant. We observe that initially the appellant has filed the Bill of Entry No.3106702 dated 04.05.2019 for clearance of the imported goods under

the Chapter sub-heading 96031000 of Customs Tariff Act, 1975 in accordance to the import invoice and country of origin certificate. They had claimed the benefit of Sl. No.1580 (I) of Notification No.46/2011-CUS dated 01.06.2011 with respect to BCD and Sl. No.144 of Notification No.02/2017-CUS towards exemption of IGST. When the benefit available at Sl. No.1580(I) under the Notification 46/2011-Cus was not extended to them, they approached the supplier for another Country of Origin Certificate with change in the classification under CTH 14049090 and obtained the same under Ref. 0018320/KTG/2019 dated 15.04.2019, since exemption from BCD is available under Sl. no 116(I) of the Notification No. 46/201-Cus with respect to the CTH 14049090. Thus, we observe that if the goods are classified under CTH 96031000 the appellant would get the benefit of exemption from BCD under Sl. No 1580(I) and if the goods are classified under the CTH 14049090, they would get the benefit the same exemption under Sl. No.116(I), both under the same Notification No. 46/2011-Cus dated 01.06.2011. Thus, we observe that the revised COO obtained by the appellant from the supplier for the same goods declaring the classification of the goods under the CTH 14049090 cannot be relied upon to substantiate the allegation of mis declaration. We observe that the effective duty payable under both the classifications would be 'NIL' if the benefit of the Notification No. 46/2011 is extended for both the classifications. However, we observe that both the adjudicating authority and the appellate authority have denied the benefit of the exemption under Sl. No.116(I) available under the Notification No. 46/2011, when the goods are

reclassified under the CTH 14049090, on the ground that the appellant had mis-declared the goods earlier. We observe that the allegation of mis declaration is ill founded and the substantial benefit available to them under the Notification No. 46/2011-Cus cannot be taken away in the name of mis declaration. Accordingly, we hold that demand of customs duty confirmed in the impugned order by denying the benefit of the Notification No. 46/2011-Cus on the ground of mis declaration is legally not tenable. We also hold that the benefit of Notification No.002/2017-ITR dated 01.07.2017 available for IGST exemption cannot also be denied to the importer/appellant. Assuming but not admitting that the goods are merit classifiable under CTH 14049090, then also benefit of Sl. No. 93B of Notification No. 002/2017-ITR dated 01.07.2017 for IGST and Sl. No. 116(I) of Notification No.46/2011-CUS dated 01.06.2011 for BCD, is available to the importer/appellant.

7.1. Accordingly, we hold that the goods imported by the appellant are appropriately classifiable under the CTH 96031000 and the appellant would be eligible for the benefit of Sl. No.1580 (I) of Notification No.46/2011-CUS dated 01.06.2011 with respect to BCD and Sl. No.144 of Notification No.02/2017-CUS towards exemption of IGST. Thus, we hold that the demand of customs duty of Rs.4,59,025/- along with interest confirmed in the impugned order, by denying the benefits of the above said notifications, is not sustainable and accordingly, we set aside the same.

8. With respect to the order of confiscation of the goods under Section 111(m) of the Customs Act, 1962, we observe that in a case of classification dispute, there cannot be a question of mis-declaration. The goods were available for examination and the same were described and declared in the Bill of Entry in accordance to the import invoice and other import documents. It is not the case of the department that the appellant/importer had manipulated any document of import in order to avail any undue benefit. The Proper Officer of Customs can always dispute the classification. Change of classification in the present case does not affect the duty liability also. In such circumstance, we hold that the question of mis-declaration does not arise in this case. Accordingly, we set aside the order of confiscation and imposition of fine in lieu of such confiscation in the impugned order. When there is no question of confiscation of the imported goods, the question of imposition of penalty does not arise. We also observe that, at paragraph 12 of the adjudication Order, the Ld. Adjudicating Authority had held that the importer is liable for penalty under Section 112(a)(i) of the Customs Act, 1962, but at Sl. No.(v) under the heading "Order" he has imposed penalty under Section 112(a)(ii) of the Customs Act, 1962. Accordingly, we hold that such mechanical and arbitrary imposition of penalty, without specifying the appropriate Clause under which it is imposed, is liable to be quashed.

9. In view of the above discussions, we pass the following order:

- (i) We hold that the goods imported by the appellant are appropriately classifiable under the CTH 96031000 and the appellant would be eligible for the benefit of Sl. No.1580 (I) of Notification No.46/2011-CUS dated 01.06.2011 with respect to BCD and Sl. No.144 of Notification No.02/2017-CUS towards exemption of IGST. Thus, we hold that the demand of customs duty of Rs.4,59,025/- along with interest confirmed in the impugned order, by denying the benefits of the above said notifications, is not sustainable and accordingly, we set aside the same.
- (ii) We set aside the order of confiscation and imposition of fine in lieu of such confiscation in the impugned order.
- (iii) The penalties imposed on the appellant is set aside.

10. In the result, we set aside the impugned order and allow the appeal filed by the appellant.

(Order pronounced in the open court on **21.01.2025**)

Sd/-

(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)