CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 85495 OF 2014

[Arising out of Order-in-Original No: 02/Cus/2013 dated 31st October 2013 passed by the Commissioner of Central Excise, Customs & Service Tax, Nashik.]

DI Deserda
Jain Irrigation Systems Ltd
Jain Plastics Park, National Highway No.6,
Bambhori, Jalgaon - 425001 … ***Appellant***

versus

Commissioner of Central Excise
Kendriya Rajaswa Bhavan, Annex Building
RG Gadkari Chowk, Nashik 422002 ***…Respondent***

WITH

CUSTOMS APPEAL NO: 85496 OF 2014

[Arising out of Order-in-Original No: 02/Cus/2013 dated 31st October 2013 passed by the Commissioner of Central Excise, Customs & Service Tax, Nashik.]

Ajit B Jain
Jain Irrigation Systems Ltd
Jain Plastics Park, National Highway No.6,
Bambhori, Jalgaon - 425001 … ***Appellant***

versus

Commissioner of Central Excise
Kendriya Rajaswa Bhavan, Annex Building
RG Gadkari Chowk, Nashik 422002 ***…Respondent***

AND

CUSTOMS APPEAL NO: 85507 OF 2014

[Arising out of Order-in-Original No: 02/Cus/2013 dated 31st October 2013 passed by the Commissioner of Central Excise, Customs & Service Tax, Nashik.]

Jain Irrigation Systems Ltd
Jain Plastics Park, National Highway No.6,
Bambhori, Jalgaon - 425001 … ***Appellant***

versus

Commissioner of Central Excise
Kendriya Rajaswa Bhavan, Annex Building
RG Gadkari Chowk, Nashik 422002 ***…Respondent***

APPEARANCE:

Shri Sachin Chitnis and Shri Viraj Reshamwala, Advocates for the appellants

Shri Deepak Sharma, Assistant Commissioner (AR) for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)
HON'BLE MR AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO: 85786-85788 /2025

DATE OF HEARING: 14/10/2024
DATE OF DECISION: 15/04/2025

PER: C J MATHEW

These appeals of M/s Jain Irrigation Systems Ltd and its Directors arise from non-payment of anti-dumping duty (ADD), imposed on 'polyvinyl chloride resin' by notification[1], on imports effected against 13 bills of entry filed between 17th January 2009 and 26th December 2010 and against one bill of entry dated 12th October 2012. The appellant paid the entire amount of ₹ 1,09,85,697 on 21st

[1] [no. 11/2008-Cus dated 23rd January 2008]

January 2011 and 27th January 2011.

2. We have heard Learned Counsel for the appellant and Learned Authorized Representative.

3. It would appear that the primary defence of the appellant herein is that the demand is barred by limitation inasmuch as there had been no suppression of information or mis-representation as is evident from appraisal of electronic declaration for warehousing of goods which were dealt for clearance through manual bills only thereafter.

4. Though the adjudicating authority has dealt with several pleas made by the appellant insofar as the invoking of the extended period of limitation is concerned, one aspect – and crucial, according to us – appears to have been overlooked, *viz.*

> *'11. The warehousing bills of entry are processed electronically. Inasmuch, as on feeding the information about the product and classification, the computer on its own picks up each of the rates of import duties applicable to such imports. The rates mentioned cannot be changed by the importer/CHA who has fed other details. Since the disputed imports of PVC resins both for their DTA unit and EOU were made at Nhava Sheva Customs, bills of entry for export were filed electronically. The warehoused goods, thereafter, were cleared for home consumption by filing ex-bond bills of entry manually and the same were assessed to.'*

5. The effect of this plea is that the electronic system for

assessment had not computed duty liability devolving on the said goods and consequently upon filing of manual ex-bond bills of entry there was no reason for them to be cognizant of the imposition of such duties in the meanwhile. As this issue had not been addressed, the primary defense of the noticee against invoking of the extended period remains unanswered. For this reason, it would be appropriate for the impugned order to be set aside and the issue of limitation to be addressed afresh in *denovo* proceedings by the original authority.

6. Accordingly, the appeals are allowed by way of remand.

(Order pronounced in the open court on 15/04/2025)

(AJAY SHARMA)
Member (Judicial)

(C J MATHEW)
Member (Technical)

**/as*