

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI**

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 86113 of 2014

(Arising out of Order-in-Appeal No. 311 (Gr.V)/2014(JNCH)/IMP-292 dated 06.02.2014 passed by the Commissioner of Customs (Appeals), Mumbai-II, JNCH, Nhava Sheva, Taluka-Uran, District-Raigad, Maharashtra.)

Classic Stripes Private Limited

.... Appellants

Survey No.192, H.No.1; Survey No.193, H.No.2;
Survey No.194, H.No.3, 210 H.No.1/2
Village Pelhar, Taluka-Vasai
Thane – 401 202.

Versus

Commissioner of Customs (Import)

.... Respondent

Jawaharlal Nehru Customs House (JNCH)
Nhava Sheva, Taluka-Uran, District-Raigad,
Maharashtra – 400 707.

APPEARANCE:

Shri Neerav Mainkar, Advocate for the Appellants

Shri Krishna Murari Azad, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85928/2025

Date of Hearing: 20.02.2025

Date of Decision: 19.06.2025

Per: M.M. PARTHIBAN

This appeal has been filed by M/s Classic Stripes Private Limited, Thane (herein after, referred to as 'the appellants', for short), assailing Order-in-Appeal CAO No. 311 (Gr.V)/2014(JNCH)/IMP-292 dated 06.02.2014 (herein after, referred to as 'the impugned order') passed by the Commissioner of Customs (Appeals), Mumbai-II, JNCH, Nhava Sheva, Taluka-Uran, District-Raigad, Maharashtra.

2.1 Briefly stated, the facts of the case are that the appellants herein is a leading manufacturer and supplier of 'Screen-Printed Self-Adhesive PVC Stickers; Screen Printed Dials', who are having sophisticated screen-printing machines in their factory and the final products produced from such machines i.e., stickers are mainly supplied to leading two-wheeler manufacturers viz., Hero Motors and Bajaj Auto. For the purpose of aforesaid machines, the appellants had imported 'printing frames profile

SLOP' having dimension 135/125 or 105/95 X 50 X 5.0/2.5 mm from the supplier M/s Anton Hurtz GMBH & Company, Germany. In this regard, the appellants have filed Bill of Entry (B/E) No. 8748989 dated 13.12.2012 by classifying the said product under Customs Tariff Item (CTI) 8443 9990 of the First Schedule to the Customs Tariff Act, 1975. The imported goods were subjected to examination on second check basis by the jurisdictional customs authorities.

2.2 Upon such examination, the Department had interpreted that the impugned goods are liable to be classified under CTI 7610 9090. Accordingly, proceedings were initiated for confiscation of imported goods under Section 111(m) and consequential penalty under Section 114A/112(a) of the Customs Act, 1962. On the basis of the request letter dated 26.12.2012 of the appellants for waiver of issue of Show Cause Notice, the case was adjudicated by the original authority by issue of Order-in-Original dated 27.12.2013, wherein the impugned goods were confiscated under Section 111(m) *ibid* with an option to redeem the goods upon payment of redemption fine of Rs. 2,50,000/- under Section 125 *ibid*; confirmed the differential duty of Rs.78,175/- and imposed penalty of Rs.50,000/- under Section 112(a) *ibid*.

2.3 Being aggrieved with the order of the original authority, appellants have filed an appeal before the Commissioner of Customs (Appeals), who had issued the impugned order wherein he has upheld the order passed by the original authority and dismissed the appeal filed by the appellants. Feeling aggrieved with the said impugned order, the appellants has preferred this appeal before the Tribunal.

3.1 The Learned Advocate appearing for the appellants submitted that the disputed goods i.e., printing frames profiles have been imported without screen mesh, since the same was required to be mounted on the printing machines already installed in the appellant's factory premises. He further stated that the imported printing frames profile, without the screen / mesh has the essential character of complete screen-printing frame and hence it is rightly classifiable as part of screen-printing machinery. In this regard, he also stated that the case law relied upon by the learned Commissioner of Customs (Appeals) in the impugned order is not applicable to the case, since the details of invoice, packing list, catalogue of the product have been furnished by the appellants, whereas in the relied upon case law, no such detail was provided; further, in that case, the

Tribunal held on the classification of the 'printing screens made of silk' and not in respect of classification of printing frame profiles.

3.2 Learned Advocate has also submitted that from the product catalogue supplied by the manufacturer explains that due to continued use of screen-printing frames while printing the images on the output, these frames receive enormous force of about 400 kgs. due to which these become weak or unsuitable, unable to provide clear output. Therefore, such screen-printing frames are required to be replaced and also such frames should be of high quality so as to withstand possible deformation through tensioning on account of force used in the process of printing. Such screen-printing frames manufactured with high precision and of specific dimensions enable these to be part of such screen-printing machines and therefore, the classification of impugned goods adopted by the appellants under CTI 8443 9990 is correct and is legally sustainable.

3.3 It was further submitted by the learned Advocate that the department has proceeded on the premise that the US Customs Ruling had given a classification opinion on extruded aluminium frames, for classifying it under sub-heading 7616.99.50.90 of US Customs Tariff, which he submitted does not have any legal force in India. Therefore, he prayed that the appeal filed by the appellants be allowed.

4. On the other hand, the Learned Authorised Representative (AR) appearing for the Revenue reiterated the findings recorded in the impugned order and further submitted that the appellants had mis-declared the classification of the imported goods. Hence, he submitted that the impugned order is sustainable.

5. We have heard both sides and perused the case records and additional paper books submitted in this case by both sides.

6.1 The issue involved herein is to decide the classification of impugned goods imported by the appellants as to whether, the same merits classification under Customs Tariff Item (CTI) 8443 9990 as claimed by the appellants; or, is it classifiable under Customs Tariff Heading (CTI) 7610 9090 as determined by the learned Commissioner of Customs (Appeals), for deciding on the appropriate levy of customs duty. Further, it is also required to be decided whether the confirmation of the demand, consequent redemption fine and penalty is legally sustainable on the basis of the determination of the classification of impugned goods.

6.2 In order to address the above issue of classification of imported goods, we would like to refer the relevant legal provisions contained in Section 12 of the Customs Act, 1962; the Customs Tariff Act, 1975 and rules framed thereunder for consideration of proper and appropriate classification of the subject goods under dispute.

"Section 12. Dutiable goods. -

(1) Except as otherwise provided in this Act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, on goods imported into, or exported from, India.

(2) The provisions of sub-section (1) shall apply in respect of all goods belonging to Government as they apply in respect of goods not belonging to Government."

"Section 1. Short title, extent and commencement. -

(1) This Act may be called the Customs Tariff Act, 1975.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Section 2. Duties specified in the Schedules to be levied. -

The rates at which duties of customs shall be levied under the Customs Act, 1962 (52 of 1962), are specified in the First and Second Schedules.

xxx

xxx

xxx

xxx

THE FIRST SCHEDULE – IMPORT TARIFF

(Refer Section 2)

THE GENERAL RULES FOR THE INTERPRETATION OF IMPORT TARIFF

Classification of goods in this Schedule shall be governed by the following principles:

1. The titles of Sections, Chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions:

2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished articles has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled.

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that

material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

3. When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable.

(c) When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

4. Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.

5. In addition to the foregoing provisions, the following rules shall apply in respect of the goods referred to therein:

(a) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. This rule does not, however, apply to containers which give the whole its essential character;

(b) Subject to the provisions of (a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provisions does not apply when such packing materials or packing containers are clearly suitable for repetitive use.

6. For legal purposes, the classification of goods in the sub-headings of a heading shall be determined according to the terms of those sub headings and any related sub headings Notes and, mutatis mutandis, to the above rules, on the understanding that only sub headings at the same level are comparable. For the purposes of this rule the relative Section and Chapter Notes also apply, unless the context otherwise requires.

THE GENERAL EXPLANATORY NOTES TO IMPORT TARIFF

1. Where in column (2) of this Schedule, the description of an article or group of articles under a heading is preceded by "-", the said article or group of articles shall be taken to be a sub-classification of the article or group of articles covered by the said heading. Where, however, the description of an article or group of articles is preceded by "- -", the said article or group of articles shall be taken to be a sub-classification of the immediately preceding description of the article or group of articles which has "-". where the description of an article or group of articles is preceded by "----" or "----", the said article or group of articles shall be taken to be a sub-classification of the immediately preceding description of the article or group of articles which has "-" or "--".

2. The abbreviation "%" in any column of this Schedule in relation to the rate of duty indicates that duty on the goods to which the entry relates shall be charged on the basis of the value of the goods as defined in section 14 of the Customs Act, 1962 (52 of 1962), the duty being equal to such percentage of the value as is indicated in that column.

3. In any entry, if no rate of duty is shown in column (5), the rate shown under column (4) shall be applicable.

ADDITIONAL NOTES

In this Schedule,—

(1)(a) "heading", in respect of goods, means a description in list of tariff provisions accompanied by a four-digit number and includes all sub-headings of tariff items the first four-digits of which correspond to that number;

(b) "sub-heading", in respect of goods, means a description in the list of tariff provisions accompanied by a six-digit number and includes all tariff items the first six-digits of which correspond to that number;

(c) "tariff item" means a description of goods in the list of tariff provisions accompanying eight digit number and the rate of customs duty;

(2) the list of tariff provisions is divided into Sections, Chapters and Sub-Chapters;

(3) in column (3), the standard unit of quantity is specified for each tariff item to facilitate the collection, comparison and analysis of trade statistics."

6.3 From plain reading of the above legal provisions, it transpires that in order to determine the appropriate duties of customs payable on any imported goods, one has to make an assessment of the imported goods for its correct classification under the First Schedule to Customs Tariff Act, 1975 in accordance with the provisions of the Customs Tariff Act by duly following the General Rules for Interpretation (GIR) and the General Explanatory notes (GEN) contained therein. The First Schedule to the Customs Tariff Act, 1975 specifies the various categories of imported goods in a systematic and well-considered manner, in accordance with an

international scheme of classification of internationally traded goods, i.e., 'Harmonized Commodity Description and Coding System' (HS). Accordingly, goods are to be classified taking into consideration the scope of headings / sub-headings, related Section Notes, Chapter Notes and the General Rules for the Interpretation (GIR) of the First Schedule to the Customs Tariff Act, 1975. Rule 1 of the GIR provides that the classification of goods shall be determined according to the terms of the headings of the tariff and any relative Section notes or Chapter notes and thus, gives precedence to this while classifying a product. Rules 2 to 6 provide the general guidelines for classification of goods under the appropriate sub-heading. In the event of the goods cannot be classified solely on the basis of GIR 1, and if the headings and legal notes do not otherwise require, the remaining Rules 2 to 6 may then be applied in sequential order. Further, while classifying goods, the foremost consideration is the 'statutory definition', if any, provided in the Customs Tariff Act. In the absence of any statutory definition, or any guideline provided by HS explanatory notes, the trade parlance theory is to be adopted for ascertaining as to how the goods are known in the common trade parlance for the purpose of dealing between the parties.

7. In the case before us, the contending classification of imported goods discussed in the impugned order are either under CTI 8443 9990 or under CTI 7610 9090 of the First Schedule to the Customs Tariff Act. Thus, it is clear that at the Chapter level itself, there is a difference of opinion among the department and the appellants. The dispute in classification therefore lies in the narrow compass of analysis of the appropriate Headings under which the impugned goods are covered as per the Customs Tariff in the respective Chapters and then classifying the impugned product under the corresponding Sub-heading, Tariff Item which is appropriate as per the legal principles of classification of goods. Now, we may closely examine the scope of the contending classification for determining correct classification of the imported goods. The various headings of the entire Chapter 76 have been extracted and given below. Further, the two contending headings of Chapter 76 and Chapter 84 and the relevant sub-headings and their tariff entries, as given in the First Schedule to the Customs Tariff Act are extracted as below:

"SECTION XV

BASE METALS AND ARTICLES OF BASE METAL

CHAPTER 76

Aluminium and articles thereof

Chapter Heading	Description of goods
(1)	(2)
7601	Unwrought aluminium
7602	Aluminium waste and scrap
7603	Aluminium powders and flakes
7604	Aluminium bars, rods and profiles
7605	Aluminium wire
7606	Aluminium plates, sheets and strip, of a thickness exceeding 0.2mm
7607	Aluminium foil (whether or not printed or backed with paper, paper-board, plastics or similar backing materials) of a thickness (excluding any backing) not exceeding 0.2 mm
7608	Aluminium tubes and pipes
7609	Aluminium tube or pipe fittings (for example, couplings, elbows, sleeves)
7610	Aluminium structures (excluding prefabricated buildings of heading 9406)....
7611	Aluminium reservoirs, tanks, vats and similar containers....
7612	Aluminium casks, drums, cans, bodes and similar containers....
7613	Aluminium containers for compressed or liquefied gas
7614	Stranded wire, cables, plaited bands and the like, of aluminium, not electrically insulated
7615	Table, kitchen or other household articles and parts thereof, of aluminium...; sanitary ware and parts thereof, of aluminium
7616	Other articles of aluminium

In plain reading of the various entries providing the description of the goods covered under respective headings of Chapter 76, starting from 7601 to 7616, it transpires that all goods covered under this Chapter, irrespective of, its form, whether raw, unfinished or finished; its usage, whether as simple container or tube or household article or as a part in various machines; are required to be made of aluminium. It also transpires that only parts of general use or nature such as nails, screws, rivets, pins, washers etc., are covered under CTH 7616.

The two contending classification in the present dispute is falling under CTI 7610 9090 or under CTI 8443 9990, and the respective tariff entries are given below:

"Tariff Item	Description of goods
(1)	(2)
7610	ALUMINIUM STRUCTURES (EXCLUDING PREFABRICATED BUILDINGS OF HEADING 9406) AND PARTS OF STRUCTURES (FOR EXAMPLE, BRIDGES AND BRIDGE-SECTIONS, TOWERS, LATTICE MASTS, ROOFS, ROOFING FRAMEWORKS, DOORS AND WINDOWS AND THEIR FRAMES AND THRESHOLDS FOR DOORS, BALUSTRADES, PILLARS AND COLUMNS); ALUMINIUM PLATES, RODS, PROFILES, TUBES AND THE LIKE, PREPARED FOR USE IN STRUCTURES
7610 1000	- Doors, windows and their frames and thresholds for doors
7610 90	- <i>Other:</i>
7610 9010	--- Structures
7610 9020	--- Parts of structures, not elsewhere specified
7610 9030	--- Aluminium plates, rods, profiles, tubes and the like, prepared for use in structure
7610 9090	--- <i>Other"</i>

And

SECTION XVI**MACHINERY AND MECHANICAL APPLIANCES; ELECTRICAL EQUIPMENT; PARTS THEREOF; SOUND RECORDERS AND REPRODUCERS, TELEVISION IMAGE AND SOUND RECORDERS AND REPRODUCERS, AND PARTS AND ACCESSORIES OF SUCH ARTICLES****NOTES :**

....

2. Subject to Note 1 to this Section, Note 1 to Chapter 84 and to Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules :

(a) parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;

(b) other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. *However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517, and parts which are suitable for use solely or principally with the goods of heading 8524 are to be classified in heading 8529.

(c) all other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate or, failing that, in heading 8487 or 8548.

"Tariff Item"	Description of goods
(1)	(2)
8443	PRINTING MACHINERY USED FOR PRINTING BY MEANS OF PLATES, CYLINDERS AND OTHER PRINTING COMPONENTS OF HEADING 8442; OTHER PRINTERS, COPYING MACHINES AND FACSIMILE MACHINES, WHETHER OR NOT COMBINED; PARTS AND ACCESSORIES THEREOF
	<i>- Printing machinery used for printing by means of plates, cylinders and other printing components of heading 8442:</i>
8443 1100	-- Off set printing machinery, reel fed
	xxx xxx xxx
8443 19	-- Other:
	xxx xxx xxx
	-- Other printers, copying machines and facsimile machines, whether or not combined :
8443 3100	-- Machines which perform two or more of the u 7.5% - functions of printing, copying or facsimile transmission, capable of connecting to an automatic data processing machine or to a network:
8443 32	-- Other, capable of connecting to an automatic data processing machine or to a network:
	xxx xxx xxx
8443 39	-- Other:
	xxx xxx xxx
8443 99	-- Other:
8443 9910	--- Automatic documents feeders of copying machines
	xxx xxx xxx
8443 9959	--- Other
8443 9960	--- Parts and accessories of goods of sub-heading 8443 39
8443 9990	--- Other"

8.1 It could be seen that by applying the GIR 1, the position is made clear that Chapter Sub-Heading 7610 90 covers within its scope and ambit,

other aluminium structures and other aluminium goods used in structures; however, these do not cover aluminium parts or aluminium structures for use in screen-printing machines. Further, the CTI 7610 9090 is a residual heading of 'other' which does not specifically cover the impugned goods, just because it is made of aluminium. It is also worthwhile to note that the 'aluminium profiles' covered under the CTH 7604 are of basic shapes such as rods, bars, hollow profiles and the impugned goods are not covered under the scope of such heading, which require further working in order to bring it to goods of general or specific use. Therefore, we are of the *prima facie* view that the impugned goods are not covered by the CTI 7610 9090, as upheld by the learned Commissioner of Customs (Appeals) in the impugned order, by confirming the decision of the original authority, on the classification of the impugned goods.

8.2. Similarly, by applying same GIR 1, it could also be seen that Chapter Heading 8443 covers within its scope and ambit, mainly printing machinery used for printing by means of plates, cylinders and other printing components and its parts and accessories thereof. Further, we also find that the impugned goods i.e., 'printing frames profile' are manufactured for specific use in 'screen-printing machines', in terms of overall dimension and the profile slope, sizes of which are in milli meters, as provided in detail in the invoice and packing list, evidencing the fact that the impugned goods have attained the essential character of 'parts of screen-printing machines'.

8.3 Note 2 to Section XVI provide guidelines/rules for classification of parts of machines. Accordingly, if a part is suitable for use solely or principally with a particular kind of machine or with a number of such machines, then the parts are to be classified with the machines of that kind. By applying this rule for classification of parts, the impugned goods being 'profiles of specific dimension' suitable with a particular kind of screen-printing machine are required to be classified under CTI 8443 9990.

8.4 From the above discussion on the scope of coverage of goods under the two contending CTIs, in terms of GIR-1, and the discussion on facts of the case about the impugned goods and on the basis of Note 2 to Section XVI, we are of the considered view that the imported 'printing frames profiles' are appropriately classifiable under CTI 8443 9990, and not under the CTI 7610 9090.

9. In view of the foregoing discussion and analysis, the impugned order dated 06.02.2014 classifying the imported goods under heading CTI 7610 9090 by upholding the original order does not stand the scrutiny of law and therefore it is liable to be dismissed. Accordingly, we set aside the impugned order dated 06.02.2014 to the extent it had upheld the confirmation of adjudged demands on the basis of revised classification and had imposed fine and penalty on the appellants.

10. In the result, by setting aside the impugned order dated 06.02.2014, we allow the appeal filed by the appellant-importer in their favour with consequential relief, as per law.

(Order pronounced in open court on 19.06.2025)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

Sinha