

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

REGIONAL BENCH - COURT NO. 01

Customs Appeal No. 86525 of 2023

(Arising out of Order-in-Original No. 06/2023-24/CAC/CC(IMPORT-I)/VP/ADJ(IMP-I) dated 30.04.2023 passed by the Commissioner of Customs (Import-I), Mumbai)

M/s Ultratech Cements Ltd

.....Appellant

A Wing, Ahura Centre, 1st Floor, Mahakali Caves Road,
Andheri (E), Mumbai-400 093.

VERSUS

Commissioner of Customs, Mumbai Import-I

....Respondent

New Custom House, Ballard Estate,
Mumbai-400 001.

Appearance:

Shri Akhilesh Kangasia, Advocate for the Appellant

Shri Deepak Sharma, 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/86790/2025

Date of Hearing: 13.11.2025

Date of Decision: 13.11.2025

PER : S. K. MOHANTY

Heard both sides and perused the case records.

2. Brief facts of the case are that the appellants had imported 'Wheel Loaders' from Japan and classified the same under CTH 84295900 of the First Schedule to the Customs Tariff Act, 1975. The imported goods, at the material time, had attracted concessional rate of duty in terms of Notification No. 69/2011 dated 29.07.2011. However, while assessing the Bills of Entry, the department had changed the classification of the subject goods to CTH 84209100,

which attracts Basic Customs Duty (BCD) @ 7.5% *ad valorem*. Owing to the reason of change in the classification of the subject goods, the department had initiated show cause proceedings against the appellants, seeking for confirmation of the differential duty along with interest and also proposals were made for imposition of penalties under Section 114A and 114AA of the Customs Act, 1962. The Show Cause Notice (SCN) dated 01.07.2022 was issued under sub-section (4) of Section 28 of the Act of 1962. The proposals made in the SCN were adjudicated vide the impugned order dated 30.04.2023, wherein the original authority had confirmed the differential BCD along with interest and also imposed penalties on the appellants. Feeling aggrieved with the impugned order, the appellants have preferred this appeal before the Tribunal.

3. Learned Advocate appearing for the appellants submitted that an identical issue was dealt with by the co-ordinate bench of this Tribunal in the case of *Larsen & Turbo Ltd.* 2025 (10) TMI 1204-CESTAT Chennai and the appeal was allowed in favour of the appellants therein on the ground of limitation. On reading of the relied upon decision passed by the Co-ordinate bench, we find that on merits, the Tribunal has accepted the classification claimed by the department under CTH 84295100. However, the appeal filed by the appellant therein was allowed on the ground of limitation, holding that the charges of collusion, wilful mis-statement, suppression of facts etc., cannot be levelled against the appellant. Further, we also find that the Tribunal in the said order has set aside the penalties imposed on the appellants therein under Section 114A and 114AA of the Act of 1962. Since, the issue involved in the present appeal is entirely identical to the case of *Larsen & Toubro* (supra), involving the same product in dispute, we are of the view that different interpretation cannot be placed by this Bench to decide the issue differently.

4. Therefore, the impugned order to the extent it has confirmed the adjudged demands by invoking the extended period of limitation is set aside; and the demand towards basic Customs duty and interest shall be confined only to the normal period provided under the statute. Considering the facts and circumstances of the case, we are of the view that penalties imposed on the appellants under Section 114A and

114AA ibid shall not stand judicial scrutiny and accordingly, penalties imposed on the appellants are set aside. Since the provisions of Section 111(m) of the Act of 1962 cannot be invoked inasmuch as there is no misdeclaration with regard to the product in dispute, redemption fine imposed in the impugned order cannot also be sustained and accordingly the same is set aside.

5. In the result, the appeal is partly allowed to the extent of setting aside the demands made towards BCD along with interest confirmed beyond the normal period. Redemption fine and penalties imposed in the impugned order are set aside in entirety.

(Dictated and pronounced in the open court)

(S. K. Mohanty)
Member (Judicial)

(M. M. Parthiban)
Member (Technical)

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