CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 86825 of 2022

[Arising out of Order-in-Original No.09/2022-23/Commr/NS-V/CAC/JNCH dated 27.05.2022 passed by Commissioner of Customs (NS-V), Jawaharlal Nehru Custom House (JNCH), Nhava Sheva.]

Dewcon Industries **.......Appellants**
Village Kirpalpur, Opposite Hindustan Unilever
Nalagarh, District Solan,
Himachal Pradesh – 174 101.

VERSUS

Commissioner of Customs (NS-V), Nhava Sheva **........Respondent**
Jawaharlal Nehru Custom House (JNCH), Nhava Sheva,
Taluka-Uran, District-Raigad,
Maharashtra–400 707.

WITH

Customs Appeal No. 87501 of 2024

[Arising out of Order-in-Original No.09/2022-23/Commr/NS-V/CAC/JNCH dated 27.05.2022 passed by Commissioner of Customs (NS-V), Jawaharlal Nehru Custom House (JNCH), Nhava Sheva.]

Ishaan Dewan **.......Appellants**
Partner of M/s Dewcon Industries
Village Kirpalpur, Opposite Hindustan Unilever
Nalagarh, District Solan,
Himachal Pradesh – 174 101.

VERSUS

Commissioner of Customs (NS-V), Nhava Sheva **........Respondent**
Jawaharlal Nehru Custom House (JNCH), Nhava Sheva,
Taluka-Uran, District-Raigad,
Maharashtra–400 707.

AND

Customs Appeal No. 87502 of 2024

[Arising out of Order-in-Original No.09/2022-23/Commr/NS-V/CAC/JNCH dated 27.05.2022 passed by Commissioner of Customs (NS-V), Jawaharlal Nehru Custom House (JNCH), Nhava Sheva.]

Vikas Bansal **.......Appellants**
Partner of M/s Dewcon Industries
Village Kirpalpur, Opposite Hindustan Unilever
Nalagarh, District Solan,
Himachal Pradesh – 174 101.

VERSUS

Commissioner of Customs (NS-V), Nhava Sheva **........Respondent**
Jawaharlal Nehru Custom House (JNCH), Nhava Sheva,
Taluka-Uran, District-Raigad,
Maharashtra–400 707.

Appearance:

Ms. Anjali Hirawat along with Shri Kedar Kokate, Advocates for the Appellants
Shri Rajiv Ranjan, 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/86975-86977/2025

Date of Hearing: 13.02.2025
Date of Decision: 13.02.2025

PER : M. M. PARTHIBAN

These appeals have been filed by M/s Dewcon Industries, Nalagarh, Himachal Pradesh, who is the appellant-importer company; Shri Ishaan Dewan and Shri Vokas Bansal, both Partners of the appellant-importer company (herein after, referred together, as 'the appellants', in short), assailing Order-in-Original No. 09/2022-23/Commr/NS-V/CAC/JNCH dated 27.05.2022 (herein after, referred to as 'the impugned order', in short) passed by the learned Commissioner of Customs (NS-V), Jawaharlal Nehru Custom House (JNCH), Nhava Sheva, Taluka-Uran, District-Raigad, Maharashtra.

2. Classification of imported goods namely, "Metal Core Printed Circuit Boards" (MCPCBs) used in manufacturing of LED Lamps, is the subject matter of present dispute. The appellants herein have imported MCPCBs declaring the goods as MCPCBs of different dimensions classifying them under Customs Tariff Item (CTI) 8534 00 00 of the First Schedule to the Customs Tariff Act 1975 and claiming full exemption from Basic Customs Duty (BCD) under serial No. 22 of Notification No.24/2005-Customs dated 01.03.2005. However, the classification claimed in respect of imported goods was disputed by the Department and investigation was initiated against various imports made by the appellants during the period of dispute from 02.05.2018 to 08.08.2019. On completion of the investigation, Show Cause Notice (SCN) dated 09.03.2022 was issued proposing for change of classification of the imported goods under CTI 9405 9900 and for demand of duty under Section 28(4) of the Customs Act, 1962 along with interest; and for confiscation of goods under Section 111(m) ibid; and for imposition of penalty on the appellants under Sections 112(a)/114A and 114AA ibid. The said SCN was adjudicated by the learned Commissioner in confirming the duty demand along with the interest; confiscation of imported goods under Section 111(m) ibid and offering it to be

redeemed on payment of redemption fine of Rs.10,00,000/- under Section 125 ibid and also imposed mandatory penalty equal to differential duty on the appellants-importer under Section 114A ibid and also imposed penalty of Rs.10,00,000/- each on Shri Ishaan Dewan, Partner and Shri Vokas Bansal, Partner of the appellants firm in the impugned order. Feeling aggrieved with the impugned order, the appellants have referred this appeal before the Tribunal.

3. Heard both sides and perused the records of the case along with additional submissions made by both sides in the form of paper books.

4. We find that with regard to classification of the disputed goods i.e., Metal Core Printed Circuit Boards (MCPCBs), the learned Commissioner in the impugned order has based his findings for classification of such goods under sub-heading 9405 on the basis of composition of material as taken from the websites of various manufacturers and the description given in the entry in Serial No.227 of the Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017 providing for the effective rate of Integrated GST leviable on the imported goods.

5. From the plain reading of the legal provisions of Section 12 of the Customs Act, 1962 and Section 2 of the Customs Tariff Act, 1975, it transpires that in order to determine the appropriate duties of customs payable on any imported goods, the proper officer of customs 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 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.

6. In the above context, we find that contending entries for classification of impugned goods in the First Schedule to the Act of 1975 are as follows:

Chapter 85: Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles

Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential Areas
(1)	(2)	(3)	(4)	(5)
85340000	Printed circuits	[u]	Free	-

&

Chapter 94: Furniture; bedding; mattresses; mattress supports; cushions and similar stuffed furnishings; luminaires and lighting fittings, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like; prefabricated buildings

Tariff Item	Description of goods	Unit	Rate of Duty	
			Standard	Preferential Areas
(1)	(2)	(3)	(4)	(5)
9405	Luminaires and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included			
	- Parts:			
9405 91 00	-- of glass	Kg.	25%	-
9405 92 00	-- of plastics	Kg.	25%	-
9405 99 00	-- Other	Kg.	25%	-

On perusal of the above two contending headings and the respective terms at the level of Customs Tariff Item (CTI), it transpires that CTI 8534 00 00 is specific in its coverage of printed circuits of all types without providing for any restriction as to the type of constituent material or cladding, insulating material; whereas the CTI 9405 99 00 is a residuary entry covering other parts of luminaires and light fittings other than those of glass or plastics. Further, we find that the Note 2 to Section XVI covering goods classifiable under chapters 84 and 85 specifically provide for classifying the parts as follows:

> "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;*
>
> *(c) 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;*
>
> *(d) 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."*

Further, the scope of coverage of the expression 'printed circuits' in Chapter heading 8534 has been defined under Chapter Note 8 to Chapter 85 as follows:

> *"8. For the purposes of heading 8534, "printed circuits" are circuits obtained by forming on an insulating base, by any printing process (for example, embossing, plating-up, etching) or by the "film circuit" technique, conductor elements, contacts or other printed components (for example, inductances, resistors, capacitors) alone or interconnected according to a pre-established pattern, other than elements which can produce, rectify, modulate or amplify an electrical signal (for example, semi-conductor elements).*
>
> *The expression "printed circuits" does not cover circuits combined with elements other than those obtained during the printing process, nor does it cover individual, discreet resistors, capacitors or inductances. Printed circuits may, however, be fitted with non-printed connecting elements.*
>
> *Thin or thick-film circuits comprising passive and active elements obtained during the same technological process are to be classified in heading 8542"*

In Chapter Note 94

> *"1. This Chapter does not cover:*
> *(a)pneumatic or water mattresses, pillows or cushions, of Chapter 39, 40 or 63;*
> *xxx xxx xxx xxx*
> *(f) lamps or light sources and parts thereof of Chapter 85*"

From plain reading of the above notes, it also transpires that the printed circuits of various types are covered under CTI 8534 00 00 only and not under Chapter 94 in terms of specific exclusion provided for its coverage under that Chapter. Thus, we are of the considered opinion that solely on the basis of GIR 1, the impugned goods are rightly classifiable under CTI 8534 00 00. Further, the entry in serial No. 227 of the notification No. 1/2017-Central Tax

(Rate) dated 28.06.2017 with the description of the goods as "LED (light emitting diode) driver and MCPCB (Metal Core Printed Circuit Board)" do not suggest for its classification under Chapter 94 as the said notification prescribed only an effective rate of Central Tax/IGST on various goods. Further, we also find that the said entry No. 227 was subsequently omitted vide notification No.6/2022-Central Tax (Rate) dated 13.07.2022 along with number of other entries under S. Nos. 198, 205, 221, 226 and 227. Thus, we are of the opinion that the findings of the learned Commissioner in the impugned order is not supported by the legal provisions governing classification of imported goods under the Customs statute and therefore such order is not legally sustainable.

7. We also find that the issue of classification of MCPCBs is no more open for any debate in view of the Final Order No. A/85876/2022 dated 09.09.2022 passed by this Tribunal in the case of *Crompton Greaves Consumer Electricals Ltd. Vs. Commissioner of Customs (NS-V)* reported in 2022 (9) TMI 1130-CESTAT-MUMBAI, wherein the Tribunal has set aside the classification of MCPCB under CTI 9405 99 00 adopted by the department and upheld the classification adopted by the importer under CTI 8534 00 00. The relevant paragraphs in the above order is extracted and given below:

> *"5. The lower authorities have laid emphasis on the entry in the rate notification pertaining to levy of goods and services tax (GST) as is applicable to imports within the confines of section 3 (7) of Customs Tariff Act, 1975. In this context, it may be worthwhile referring to the decision of the Tribunal in Ortho Clinical Diagnostics India Pvt Ltd v. Commissioner of Customs (Import), ACC, Mumbai [final order no. A/85710/2022 dated 12th August 2022 disposing off customs appeal no. 85868 of 2020 against order-in-original no. CC-VA/12/2020-2021 ADJ(I) ACC dated 2nd July 2020 of Commissioner of Customs-III (Import), ACC Mumbai] holding that*
>
> > *'15. The effect of the proposition of Revenue, in support of the adjudication order, on the part of Learned Authorized Representative is that the impugned goods are not specifically emplaced in the claimed Schedules or in Schedule IV, V and V of the 'integrated tax' rate notification with consequent application of the residuary serial no. 453 corresponding to 'goods which are not specified in Schedule I, II, IV, V and VI' with columnar reference to any Chapter of the First Schedule to Customs Tariff Act, 1975. The question that begs an answer, and in the context of the rules for interpretation of the Customs Tariff Act, 1975 as well as the Explanations therein being applicable to the placement of goods in the Schedules to the 'integrated tax' rate notification combined with absence of such residuary entry in the First Schedule to Customs Tariff Act, 1975, is the significance of the very resort that Revenue seeks shelter within. From the scheme of the 'integrated tax' rate notification, it appears that the rates enumerated therein are to be read as corresponding to the tariff items in the First Schedule to Customs Tariff Act, 1975 and with the default rate or residuary rate of 18% to be read as corresponding to any tariff item lacking in such rates. This follows from the mandate of Article 269A of the Constitution and the provisions of section 5 of Central Goods and Services Tax (CGST) Act, 2017 that eliminates any scope for perceiving the rates as an exemption notification – which the adjudicating authority appears to have adopted as the guiding prism.'*

6. The description upon which the lower authorities have relied should be read in the design of the First Schedule to Customs Tariff Act, 1975 as a specific entry for the specific purpose of levy of integrated goods and services tax (IGST) on inter-state supply made applicable to imports. It cannot supplant the responsibility thrust upon the assessing authority in section 12 of Customs Act, 1962. Moreover, the tariff that emerges from the recommendations of the Goods and Services Tax (GST) Council cannot, in any way, be deemed to interpret the classification to be adopted for assessment under Customs Act, 1962.

7. The lower authorities have taken the two rival entries and applied rule 3(c) of The General Rules for the Interpretation of the Import Tariff which is relevant at the heading, and not to the descriptions at the tariff item level. The provisions for interpretation required identification of the heading at the four digit level for the purposes of comparison between two rival claims. That sought by the appellant herein is

> *'printed circuits'*

corresponding to heading 8534 of the First Schedule to Customs Tariff Act, 1975 while that adopted by the assessing authority is

> *'lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like, having permanently fixed light source, and parts thereof not elsewhere specified or included'*

corresponding to heading 9405 of First Scheduled to Customs Tariff Act, 1975. The specificity of description in the claimed classification is not anywhere matched by the description within which the assessing authorities have sought to place the impugned goods. Moreover, it is clear from the description that 'parts', if at all finding fitment within heading 9405 of First Schedule to Customs TariffAct, 1975, should not be specified or included elsewhere. In the light of the specific description, notwithstanding the addition of a metallic layer which does not find elaboration in the rival heading too, rule 3 (a) of The General Rules for the Interpretation of Import Tariff offers the solution without having to proceed further.

8. In re Hindustan Ferodo Ltd, it has been held that

> *'3. It is not in dispute before us, as it cannot be, that the onus of establishing that the said rings fell within Item 22F lay upon the Revenue. The Revenue led no evidence. The onus was not discharged. Assuming therefore, that the Tribunal was right in rejecting the evidence that was produced on behalf of the appellants, the appeal should, nonetheless, have been allowed.'*

and in HPL Chemicals Ltd v. Commissioner of Central Excise, Chandigarh [2006 (197) ELT 324 (SC)], the Hon'ble Supreme Court has held that

> *'29. This apart, classification of goods is a matter relating to chargeability and the burden of proof is squarely upon the Revenue. If the Department intends to classify the goods under a particular heading or sub-heading different from that claimed by the assessee, the Department has to adduce proper evidence and discharge the burden of proof. In the present case the said burden has not been discharged at all by the Revenue. On the one hand, from the trade and market enquiries made by the Department, from the report of the Chemical Examiner, CRCL and from HSN, it is' quite clear that the goods are classifiable as "Denatured Salt" falling under Chapter Heading No. 25.01. The Department has not shown that the subject product is not bought or sold or is not known or*

is dealt with in the market as Denatured Salt. Department's own Chemical Examiner after examining the chemical composition has not said that it is not denatured salt. On the other hand, after examining the chemical composition has opined that the subject matter is to be treated as Sodium Chloride.'

9. We take note from our analysis supra that the onus devolving on the assessing authorities has not been discharged in accordance with the law as held. The classification adopted by the assessing authorities fails in the face of the specific entry which the respondent herein has not been able to demonstrate as having been excluded from the claimed description. Consequently, we set aside the impugned order and allow the appeal."

For the same appellants, the Tribunal in the Final Order No. A/86026-86065/2023 dated 28.06.2023, dismissed the appeal filed by Revenue, by relying on the order already passed in the same issue vide Final Order No. A/85876/2022 dated 09.09.2022 (supra).

8.1 Further, we also fund that the Tribunal in the Final Order No. A/86137-86140/2023 dated 13.07.2023 in the case of *Halonix Technologies Pvt. Ltd. Vs. Commissioner of Customs, Nhava Sheva-V* have also held the issue of classification of MCPCB in favour of the appellants by setting aside the department's claim for classification under CTI 9405 99 00.

8.2 Furthermore, we also find that the Co-ordinate Bench of the Tribunal in the case of *Principal Commissioner of Customs (Preventive), New Delhi Vs. Havells India Limited* – (2025) 33 Centax 336 (Tri. – Del.), have held that MCPCB should be classifiable under Tariff Item 8534 0000. The relevant paragraph of the said order is quoted herein below:

"4. *…..When the case was listed on 14.10.2024, no one appeared nor any request for adjournment was received. Hence, we proceed to decide the case on merits. The issue for consideration before us is the classification of MCPCBs imported by the respondent assessee. We note that the Department has relied heavily on the IGST Notification 1/2007-I.T. (Rate), dated 28-6-2017 to decide the classification of the MCPCB cannot be accepted as the same was for the specific purpose of inter-State supply of goods. This cannot supplant the responsibility of the assessing officer under Section 12 of the Customs Act, 1962 to determine the classification of goods.*

5. *We find that the issue arising out of the present dispute is no more res integra in view of various orders passed by this Tribunal on identical set of facts. Since the Tribunal has taken the view that the product in question i.e., MCPCB should be classifiable under Tariff Item 8534 0000, different view cannot be taken to sustain classification of the same goods under Tariff Item 9405 9900, as claimed by the Revenue. The orders passed by the Tribunal on the issue are as under*

(i) Crompton Greaves Consumer Electricals Ltd v. *Commissioner of Customs (NS-V)* [2022 (9) TMI 1130 CESTAT MUMBAI =(2023) 5 Centax 228 (Tri.-Bom)

(ii) Crompton Greaves Consumer Electricals Ltd. v. *Commissioner of Customs (NS-V)* [Final Order No. A/86026-86065/2023 dated 28th June 2023].

> *(iii) Halonix Technologies Pvt Ltd* v. *Commissioner of Customs (NS-V)* [Final Order No. A/86137-86140/2023 dated 13th July 2023] [(2024) 20 Centax 494 (Tri.-Bom)
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> ***6.*** *In view of the settled position of law, as discussed above, we do not find any merits in the impugned appeal. We dismiss the appeal and restore the order-in-appeal dated 13.05.2022."*

8.3 The aforesaid orders dated 28.06.2023 and in the case of *Havells India Ltd.,* dated 02.01.2025 (supra) of the Tribunal in the case of *Crompton Greaves Consumer Electricals Ltd. (supra)* were appealed against by the Department in filing a Civil Appeals before the Hon'ble Supreme Court. In the Civil Appeal Diary No.28888/2024 and No. 31787/2025, the Hon'ble Supreme Court while disposing the cases have dismissed the appeal of the department on the ground of delay as well as on merits; and also stated that they find no good reason to interfere with the impugned order dated 02.01.2025 passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi.

9. Based on the foregoing discussions and analysis, and on the basis of the Orders passed by the Tribunal referred above, and the judgements of the Hon'ble Supreme Court dated 29.11.2024 and 25.07.2025, we find that the issue is no longer *res integra* in view of the aforesaid decisions cited supra. Therefore, we are of the considered view that the impugned order confirming the adjudged demands by classifying the goods contrary to the above decisions cannot be sustained.

10. In view of the above, we do not find any merits in the impugned order and accordingly, by setting aside the same, the appeals are allowed in favour of the appellants.

(Operative portion of the Order pronounced in open court.)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

SM