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

**WEST ZONAL BENCH**

**CUSTOMS APPEAL NO: 85907 OF 2025**

[Arising out of Order-in-Original No: UM/CUS/HD/07/2024-25/ADJN/APSC dated 13th August 2024 passed by the Commissioner of Customs, Airport Special Cargo, Mumbai.]

**Samarth Diamonds**
EC 7092 Bharat Diamond Bourse, BKC, Bandra (E)
Mumbai – 400051 ... ***Appellant***

*versus*

**Commissioner of Customs (II)**
**Airport Special Cargo**
Awas Corporate point, Makwana Centre, Andheri (E),
Air Cargo Complex, Sahar, Mumbai-400059 ***...Respondent***

*APPEARANCE:*

Shri Neeraj Hande, Advocate for the appellant

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

**CORAM:**

**HON'BLE MR JUSTICE DILIP GUPTA, PRESIDENT**
**HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)**

**FINAL ORDER NO: 85078/2026**

DATE OF HEARING: 22/01/2026
DATE OF DECISION: 22/01/2026

*PER: C J MATHEW*

That

*'A diamond is forever',*

from a coinage by Mary Frances Gerety for De Beers and arguably acclaimed as the slogan of the century, haunts the import of that precious stone by the appellant, M/s Samarth

Diamonds, with the submission that the diamonds were not yet 'forever' even as these were diamonds not cutting any 'ice' for being allowed benefit of exemption available, by notification[1], exclusively for 'rough diamonds' , is at the heart of this dispute.

2. The appellant herein, M/s Samarth Diamonds, imported twelve consignments of 'rough diamonds sawn' valued at ₹27,21,11,098 that, though corresponding to tariff item 7102 3100 of First Schedule to Customs Tariff Act, 1975 with standard rate of duty therein but owing to exemption *supra*, were cleared without payment of duty. The jurisdictional customs authorities were not convinced that 'sawn diamonds' were, as yet, 'rough diamonds' requiring further cutting before 'forever' and initiated proceedings for recovery of duty not paid leading to fastening of liability of ₹ 2,31,85,567 under section 28 of Customs Act, 1962, along with applicable interest under section 28AA of Customs Act, 1962 besides being imposed with penalty of like amount under section 114A of Customs Act, 1962 and further penalty under section 114AA of Customs Act, 1962.

3. Learned Counsel submitted that, in a manner the issue stands settled with recourse having been taken by the Central Government to section 28A of Customs Act, 1962 precluding such proceedings where duty had not been paid and enabling refund of duty if paid.

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[1] [no. 50/2017-Cus dated 30th June 2017]

4. Learned Authorized Representative submitted that the impugned order was legal and proper as the impugned notification had not been amended till 1st February 2022 to incorporate additional description goods therein and the clearances in the *inter regnum* extended with like benefit, by notification[2], only after adjudication had been completed.

5. From

> ‘ *Whereas, the notification no. 50/2017-Customs, dated the 30th June, 2017 of the Government of India, Ministry of Finance, Department of Revenue (hereinafter referred to as the said notification) allowed duty free import of goods of the description "Rough diamonds (industrial or non-industrial)" falling within Chapter 71 as specified against serial number (S.No.) 345 of the said notification;*
>
> *2. And whereas, the said notification was amended by notification no. 02/2022-Customs, dated the 1st February, 2022, allowing duty free import of goods of the description "Simply Sawn Diamonds" falling under the sub-heading or tariff Items "7102 21, 7102 3100" (hereinafter referred to as the said goods) by inserting serial number (S.No.) 345A, subject to condition number 110 that "If, the importer produces before the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, a certificate issued under Kimberly Process Certification Scheme (KPCS) certifying that the imported goods are diamonds, not further worked than simply sawn", with effect from 2nd February, 2022;*
>
> *3. And whereas, the Central Government is satisfied that a*

[2] [notification no. 70/2024-Cus (NT) dated 23rd October 2024]

> *practice was generally prevalent regarding non-levy of duty of customs leviable under the First Schedule of the Customs Tariff Act, 1975 (51 of 1975), read with the notification no. 50/2017-Customs, dated the 30th June, 2017, as amended, on the said goods imported into India during the period from 1st July, 2017 to 1st February, 2022;*
>
> *4. Now, therefore, in exercise of the powers conferred by section 28A of the Customs Act, 1962 (52 of 1962), the Central Government, hereby directs that the whole of the duty of customs leviable under the First Schedule of the Customs Tariff Act, 1975 (51 of 1975) read with the said notification, if any payable on the import of the said goods, during the period from 1st July, 2017 to 1st February, 2022, but for the said practice, shall not be required to be paid in respect of import of the said goods.'*

in the notification under section 28A of Customs Act, 1962, we take note of the chronology of developments and find that the impugned goods are, indeed, entitled to be relieved of duty liability.

6. In view of the finality accorded thereby, nothing further remains in this dispute. Accordingly, the impugned order is set aside to allow the appeal.

(Dictated and pronounced in the open court)

**(JUSTICE DILIP GUPTA)**
**President**

**(C J MATHEW)**
**Member (Technical)**

**/as*