CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

NEW DELHI

PRINCIPAL BENCH- COURT NO. I

Customs Appeal No. 55094 of 2023

(Arising out of Order-in-Original No. 57/2022-23/S.J./Principal Commissioner dated 30.01.2023 passed by the Principal Commissioner of Customs ACC (Import), New Delhi)

Interglobe Aviation Ltd. **...Appellant**
Level-1, Tower-C, Global Business Park,
M.G. Road, DLF City, Phase-II
Gurugram, Haryana-122002

VERSUS

Principal Commissioner of Customs **...Respondent**
Air Cargo Complex (Import),
New Customs House,
Near IGI Airport, New Delhi- 110037

With

Customs Appeal No. 54697 of 2023

(Arising out of Order-in-Original No. 57/2002-23/S.J./Principal Commissioner dated 30.01.2023 passed by the Principal Commissioner of Customs ACC (Import), New Delhi)

C.G. Logistics Limited, **...Appellant**
A-5. Gaur Bhawan, Mahipalpur,
New Delhi-110037

VERSUS

Principal Commissioner of Customs **...Respondent**
Air Cargo Complex (Import),
New Customs House,
Near IGI Airport, New Delhi- 110037

AND

Customs Appeal No. 50050 of 2023

(Arising out of Order-in-Original No. 13/2022-23/S.J./Principal Commissioner dated 23.09.2022 passed by the Principal Commissioner of Customs ACC (Import), New Delhi)

Interglobe Aviation Ltd. **...Appellant**
Level-1, Tower-C, Global Business Park,
M.G. Road, DLF City, Phase-II
Gurugram, Haryana-122002

VERSUS

Principal Commissioner of Customs **...Respondent**
Air Cargo Complex (Import),
New Customs House,
Near IGI Airport, New Delhi- 110037

APPEARANCE:

Shri B.L. Narasimhan, Ms. Anjali Singh and Ms. Kruti Parashar, Advocates for the appellant.

Shri Nikhil Mohan Goyal, Authorized Representative for the Department

CORAM:

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P. V. SUBBA RAO, MEMBER (TECHNICAL)

Date of Hearing: 12.11.2025
Date of Decision: 11.05.2026

FINAL ORDER NO's. 50857-50859/2026

JUSTICE DILIP GUPTA:

Customs Appeal No. 55094 of 2023 has been filed by the Interglobe Aviation Ltd.[1] to assail that portion of the order dated 30.01.2023 passed by the Principal Commissioner of Customs ACC (Import)[2] that rejects the classification of imported integrated drive generator and starter generator under Customs Tariff Item[3] 8502 20 90 of the Customs Tariff Act 1975[4] as also under Customs Tariff Heading[5] 8501 claimed by the appellant during the course of adjudication and holds that the goods deserve to be classified under CTI 8511 50 00 and CTI 8511 40 00 respectively. Accordingly, the demand has been confirmed with interest under section 28AA of the Customs Act. The order also imposes penalty upon the appellant under section 114A of the Customs Act.

2. **Customs Appeal No. 54697 of 2023** has been filed by C.G. Logistics Pvt. Ltd.[6] to assail that portion of the order dated 30.01.2023

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1. **the appellant**
2. **the Principal Commissioner**
3. **CTI**
4. **the Tariff Act**
5. **CTH**
6. **C.G. Logistics**

passed by the Principal Commissioner that imposes a penalty upon it under section 117 of the Customs Act.

3. **Customs Appeal No. 50050 of 2023** has been filed by the appellant to assail the order dated 23.09.2022 passed by the Principal Commissioner that has rejected the classification of the imported starter generator under CTI 8502 20 90 and also under CTH 8501 claimed by the appellant during the course of adjudication and classifies it under CTI 8511 50 00.

4. The appellant is a scheduled airline operator engaged in the service of passenger and goods carriage by air across various domestic and international destinations. C.G. Logistics is a Customs House Agent duly licensed under the Customs Broker Licensing Regulations, 2018 and acted in the capacity of a Customs House Agent for clearance of goods imported by the appellant.

5. To carry out scheduled operations in India, the appellant imported aircrafts and their parts as and when required for repair, maintenance purpose of otherwise. The dispute pertains to classification of 'integrated drive generator' and 'starter generator' imported by the appellant during the relevant period. The goods were imported by the appellant for its use in conjunction with the turboprop/turbofan engines fitted in the aircraft.

6. The technical overview of the goods, as provided by the appellant are as follows:

Integrated Drive Generator

(i) The integrated drive generator provides primary electrical power to all the aircraft electrical systems

and is used in conjunction with turboprop/turbofan engines of the aircraft. It is installed on the engine gearbox pad and incorporates a brushless, three-phase AC generator and a Constant Speed Drive[7] in a single component. CSD is a component used with either aircraft gas turbine or reciprocating engines to drive alternating current[8] generators. The speed of the output shaft of the CSD is held constant while the speed of its input shaft varies. The CSD holds the speed of the generator and the frequency of the AC constant as the engine speed varies through its normal operating range;

(ii) The integrated drive generator changes the engine input speed to the constant output speed which, the generator changes to AC. The electrical system of an aircraft comprises of various parts like the integrated drive generator, generator control unit[9], electrical generation interface unit[10], relays and contractors. The integrated drive generator provides power to such other components of the electrical system like GCU, EGIU, external relays and contractors. In addition to providing power to other aircraft systems, it also provides power to aircraft lighting system and air conditioning system. By maintaining a constant frequency and voltage output, it ensures that critical

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7. CSD
8. AC
9. GCU
10. EGIU

aircraft systems receive the necessary required power source.

Description of Starter Generator

(i) In case of turboprop/ turbofan engines, the starter generator is generally attached to the engine gear box with mount flange. It is designed to perform two functions:

(ii) **To start the engine:** It operates as a series-wound direct current motor capable of providing torque to rotate the engine;

(iii) **To function as a generator:** Once the engine reaches the self-sustaining speed, it generates a direct current voltage of 30 V and is capable of providing a power of 12kW to various components of the aircraft.

(ii) In aircrafts, the turboprop/turbofan engines are started by rotating the high-pressure compressor with the help of the starter. In order to start a turboprop/turbofan, it is necessary to accelerate the compressor to provide sufficient air to support combustion in the combustion section, or burners. Once ignition and fuel have been introduced and the lit-off has occurred, the starter must continue to assist the engine until the engine reaches a self-sustaining speed;

(iii) As soon as the starter has accelerated the compressor sufficiently to establish airflow through

the engine, the ignition is turned on followed by the fuel. At low engine cranking speeds, the fuel flow rate is not sufficient to enable the engine to accelerate. The starter, therefore, continues to crank the engine until after self-accelerating speed has been attained; and

(iv) If assistance from the starter cuts off below the self-accelerating speed, the engine will either fail to accelerate to the idle speed or may even deaccelerate because it could not produce sufficient energy to sustain rotation or to accelerate during the initial phase of the starting cycle. The starter must hence, continue to assist the engine considerably above the self-accelerating speed to avoid delay in the starting cycle, which would result in a hot or hung false start or a combination of both.

7. The appellant had been importing the goods under CTH 8501 of the First Schedule to the Tariff Act by availing full exemption from basic customs duty under Serial No. 544 of Notification No. 50/2017-Cus. dated 30.06.2017[11] and by discharging Integrated Goods & Services Tax[12] at a rate of 18% under Serial No. 372/373 of Schedule-II of Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017[13]. According to the appellant, the department had not raised any objection regarding the classification of the goods.

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11. the Exemption Notification
12. IGST
13. the Integrated Tax Notification

8. On 17.09.2019, the appellant received an audit letter wherein it was observed that the appellant had allegedly mis-classified the goods under CTH 8501/8502 and short-paid IGST at a rate of 18%. As per the audit letter, the correct classification of the subject goods was under CTI 8511 40 00, which attracts IGST at a rate of 28% under Serial No. 143 of the Integrated Tax Notification. In response to the audit letter, the appellant submitted a letter dated 25.10.2019 stating that it had inadvertently classified the subject goods under CTH 8502 (in some cases) which covers 'generating sets', instead of the correct heading CTH 8501 which covers all types of 'electric generators'. The appellant also submitted that the goods cannot be classified under CTH 8511, as mentioned in the audit letter.

9. The audit proceedings culminated into issuance of the following two show cause notices and two orders:

(i) Show cause notice dated 01.07.2020[14] raised a demand of Rs. 26,48,27,283/- under section 28(4) of the Customs Act for mis-classification of integrated drive generator, starter generator and Heat Sink Assembly and proposal for penalty under section 114A of the Customs Act. A penalty on C.G. Logistics was also proposed under section 117 of the Customs Act. This Show cause notice 1 was adjudicated by an order dated 30.01.2023 confirming the demand of Rs. 14,99,21,553/- with penalty on the appellant under section 114A. Penalty on C.G. Logistics was also confirmed under section 117 of the Customs Act. However, the

14. Show cause notice 1

demand attributable to Heat Sink Assembly was dropped. This order has been assailed in Customs Appeal No. 55094 of 2023 by the appellant and Customs Appeal No. 54697 of 2023 filed by C.G. Logistics;

(ii) Show cause notice dated 30.07.2021[15], raised a demand of Rs. 2,91,37,075/- under section 28(1) of the Customs Act for mis-classification of starter generator with proposal for penalty under section 114A of the Customs Act. Penalty on the C.G. Logistics was also proposed under section 117 of the Customs Act. This show cause notice 2 was adjudicated by an order dated 23.09.2022. Demand of Rs. 2,91,37,075/- was confirmed but penalties on the appellant and C.G. Logistics were not imposed. This order has been assailed by the appellant in Customs Appeal No. 50050 of 2023.

10. The impugned orders hold that the goods are classifiable under CTH 8511 and not under CTH 8501 for the reason that generators used with all kinds of Internal Combustion[16] engines are covered under CTH 8511 and since the goods are used with turboprop/ turbofan engines, which are IC engines, they merit classification under CTH 8511.

11. The relevant portions of the impugned order dated 30.01.2023 are reproduced below:

> "**25.9 I find that while the product 'IDG' is an electrical generator used in conjunction with turboprop/turbofan engines and is designed to provide electrical power to entire aircraft** which

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15. Show cause notice 2
16. IC engines

includes power supply to GCU, EGIU, lighting system, air conditioning etc., **'SG' is also electrical generators used in conjunction with turboprop/turbofan engines and is designed to start the aircraft engine and to provide DC power generated to various components.** I find that the turboprop/turbofan engines are those engines where the functions of intake, compression, combustion, and exhaust all take place separately. Consequently, separate sections are devoted to each function, and all functions are performed simultaneously without interruption. It is a type of an Internal Combustion (IC) engine that burns its fuel in a constant-pressure cycle and uses the expansion of the air to drive a turbine which, in turn, rotates a compressor. **Thus the turboprop/turbofan engines are a type of Internal Combustion (IC) engines only.**

25.10 The relevant portion of HSN Explanatory Notes to heading 8511 is reproduced as under: "The heading 8511 covers electrical starting or ignition equipment and appliances for internal combustion engines of any kind (piston or other types), whether for use in motor cars, aircraft, boats or the like, or for stationary engines. It also covers generators and cut-outs for use in conjunction with such internal combustion engines"

25.11 I find that the HSN Explanatory Notes to heading 8511 categorically states that this heading covers electrical starting or ignition equipment and appliance for internal combustion engines of any kind whether for use in motor car, aircraft, boat or the like-or for stationary engines. The noticee has referred to the classification of the turboprop/turbofan engines under CTH 8411 to drive a point that they are a type of gas turbines and not covered under other CI or SI IC engines classifiable under CTH 8407 or 8408. I find that HSN Explanatory Notes to CTH 8411 provides that the turbines of this heading are, in general, internal combustion engines. This evidently shows that turboprop/turbofan engines are a kind of internal combustion engines only. HSN Explanatory Notes to heading 8511

categorically states that this heading covers electrical starting or ignition equipment and appliance for internal combustion engines of any kind for use in aircrafts. As such IDG and SG are correctly classifiable under heading 8511 as an electrical ignition or starting equipment used for internal combustion engines of the kind used in aircraft. As per the Chapter Note 2, the heading 8501 to 8504 does not apply to goods described in headings 8511, 8512, 8540, 8541 or 8542. Starter generator is specifically covered under CTH 8511 4000 of the Tariff and Generators other than Starter Generator such as IDG gets covered under CTH 8511 5000 of the tariff.

25.12 Thus applying the rules of interpretation of classification i.e going by the description of the Heading 8511, the Chapter Note 2 to Chapter 85 and the HSN Explanatory Notes, I hold that the products under import i.e. Integrated Drive Generator (IDG) and Starter Generator (SG) are more appropriately classifiable under CTH 8511 40 00 and 8511 50 00 of Customs Tariff Act, 1975 respectively."

(emphasis supplied)

12. Shri B.L. Narasimhan, learned counsel for the appellant assisted by Ms. Anjali Singh and Ms. Kruti Parashar made the following submissions;

(i) The two imported goods are classifiable under CTH 8501 of the Tariff Act;

(ii) Once the re-assessment is opened by the department, the appellant is entitled to claim a classification that is different from the one claimed at the time of import. The goods were inadvertently classified under CTH 8502 in some of the Bills of Entry. The change in classification of the goods from CTH 8502 to CTH 8501 is revenue neutral as the rate

of IGST for both the entry was 18% during the relevant period;

(iii) The goods cannot be classified under CTH 8511 of the Tariff Act;

(iv) Once it is proved that the classification proposed by the department is incorrect, the demand cannot sustain without identifying the appropriate classification;

(v) The Principal Commissioner has placed reliance on the HSN Explanatory Notes to CTH 8511 to state that the said heading covers electrical starting or ignition equipment and appliances for IC engine of any kind (piston or other types) whether for use in motor cars, aircraft, boat or the like-or for stationary engine. As per the Principal Commissioner, CTH 8511 covers 'IC engines of any kind' and since, turboprop/turbofans are types of IC engines, the subject goods will be classified under CTH 8511. This finding of the Principal Commissioner is erroneous;

(vi) The extended period of limitation could not have been invoked;

(vii) Penalty under section 114A of the Customs Act is not imposable on the appellant; and

(viii) Penalty under section 117 of the Customs Act is not imposable on C.G. Logistics.

13. Shri Nikhil Mohan Goyal, learned authorized representative appearing for the department, however, supported the impugned orders and made the following submissions:

(i) Turbines of CTH 8411 are considered IC engines. Since the integrated drive generators are used in conjunction with these engines in aircraft, they meet the expansive definition provided in the HSN Notes for CTH 8511, regardless of whether the engine is spark-ignition or compression-ignition. HSN Explanatory Notes to CTH 8501 explicitly exclude generators covered under CTH 8511. By applying Note 2 to Chapter 85, Headings 8501 to 8504 do not apply to goods described in Heading 8511. Therefore, CTH 8511 provides the more specific and correct classification;

(ii) Goods specifically covered by specialized heading CTH 8511 must be classified there, even if they may otherwise fit under a general heading CTH 8501. The starter generator is defined by the appellant as a dual-purpose unit designed to both start the engines and provide direct current power generation. This functionality aligns perfectly with the statutory definition within CTH 8511 40 00. The classification of starter generator under 8511 40 00 is highly specific due to its dual purpose;

(iii) The content of CTH 8511 itself explicitly covers specialized equipments related to engines for aircraft;

(iv) The extended period of limitation was correctly invoked; and

(v) Penalty was correctly imposed on the appellant.

14. The submissions advanced by the learned counsel for the appellant and the learned authorised representative appearing for the department have been considered.

15. The dispute in the present appeals is regarding the classification of integrated drive generator and starter generator. According to the appellant the goods are classifiable under CTH 8501 while according to the department they are classifiable under CTH 8511 and more particularly integrated drive generator under CTI 8511 50 00 and starter generator under CTI 8511 40 00.

16. To appreciate the contentions, it would be appropriate to refer to the relevant Tariff Heading and Items and they are as follows:

Tariff Item	Description of goods		Unit	Rate of Duty+#	
				Standard	Preferential Areas
(1)	(2)		(3)	(4)	(5)
8501		**Electric motor and generators (excluding generating sets)**			
8501 10	-	Motors of an output not exceeding 37.5 W:			
	---	DC motor:			
8501 10 11	----	Micro motor	U	10%	-
8501 1012	----	Stepper motor	u	10%	-
8501 10 13	----	Wiper motor	u	10%	-
8501 10 19	----	Other	u	10%	-
8501 10 20	---	AC motor	u	10%	-
8501 20 00	-	Universal AC or DC motors of an output exceeding 37.5 W	u	10%	-
	-	Other DC motors; DC generators:			
8501 31	--	Of an output not exceeding 750 W:			
	---	DC motors:			
8501 31 11	----	Micro motor	U	10%	-
8501 31 12	----	Stepper motor	u	10%	-
8501 31 13	----	Wiper motor	u	10%	-
8501 31 19	----	Other	u	10%	-
8501 31 20	---	DC generators	u	10%	-
8501 32	--	Of an output exceeding 750W but not exceeding 75 kW:			
8501 32 10		DC motor	u	10%	-
8501 32 20	---	DC generators	u	10%	-

xxxx		**xxxxxxx**	**xx**	**xxx**	**xxxx**
8511		**Electrical ignition or starting equipment of a kind used for spark. Ignition or compression-ignition internalcombustion engines (for ex-ample, ignition magnetor, magneto-dynamos, ignition coils, sparking plugs and glow plugs, starter motors); generators (for example, dynamos, alternators) and cut-outs of a kind used in conjunction with such engines**			
8511 10 00	-	Sparking plugs	u	15%	-
8511 20	-	Ignition magnetos; magneto-dynamos; magnetic flywheels:			
8511 20 10	---	Electronic ignition magnetos	u	15%	-
8511 20 90	---	Other	u	15%	-
8511 30	-	Distributors; ignition coils:			
8511 30 10	---	Distributors	u	15%	-
8511 30 20	---	Ignition coils	u	15%	-
8511 40 00	-	Starter motors and dual purpose starter-generators	u	15%	-
8511 50 00	-	Other generators	u	15%	-
8511 80 00	-	Other equipment	u	15%	-
8511 90 00	-	Parts	Kg.	15%	-

17. The contention of the learned counsel for the appellant is that the goods are electrical generators used in conjunction with turboprop/turbofan engines of an aircraft. The integrated drive generator is an AC generator that provides electrical power to the entire aircraft system, which includes power supply to GCU, EGIU, aircraft lighting system and air conditioning system. The starter generator is a DC generator which is a combination of a 'starter' and a 'generator' designed to start the aircraft engine and once the engine reaches the self-sustaining speed, the starter generator switches its role to that of a generator namely providing DC power to various aircraft components.

18. It is seen that CTH 8501 covers electric motors and generators (excluding generating sets). The HSN Explanatory Notes to CTH 8501 in paragraph (II) provides that machines that produce electrical power

from various energy sources (mechanical, solar, etc.) are classified here, provided they are not more specifically covered by any other heading of the nomenclature. It further provides that the generators covered under CTH 8501 are of two types namely DC generators (dynamos) and AC generators (alternators). It cannot be disputed that the goods are electrical generators as has also been noticed by the Principal Commissioner in paragraph 25.3 of the order impugned in Customs Appeal No. 55094 of 2023.

19. The HSN Explanatory Notes to CTH 8501 also provides that the said heading does not cover the electrical generator with prime movers **or** generators (dynamos and alternators) used in conjunction with IC engines covered under CTH 8511 or for electrical lighting or signaling equipments of a kind used for cycles or motor vehicles covered under CTH 8512. The goods are not covered under CTH 8502 as it covers generating sets i.e. generators that come with prime movers. The goods that are imported by the appellant are without prime movers i.e. turboprop/turbofan engine. The goods are also not covered under CTH 8511 as this covers generators of a kind used in conjunction with spark-ignition or compression ignition IC engines. The goods, as noticed above, are used in conjunction with turboprop/turbofan engines which are gas turbine engines and are different from spark-ignition or compression ignition IC engines. The Principal Commissioner has also in paragraph 25.9 observed that the goods are used in conjunction with turboprop/turbofan engine.

20. Rule 1 of the General Rules of Interpretation[17] provides that the goods should be classified in accordance with the terms of the heading

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17. GRI

of the relevant Section or Chapter Notes. CTH 8501 covers all electric generators, whereas CTH 8511 covers only those generators which are used in conjunctions with spark-ignition or compression ignition IC engines. Since the goods are not used in conjunctions with either spark-ignition or compression ignition IC engines they will be classifiable under CTH 8501 and not CTH 8511 by application of Rule I of GRI.

21. Reference can also be made to the U.S. Cross Ruling NY 842759 dated 06.07.1989 in which the classification of integrated drive generator was determined under CTH 8501 holding that it is designed to be used with jet engines to provide a constant drive speed to the generator.

22. What follows, therefore, is that the goods are classifiable under CTH 8501 as it covers all electrical AC and DC generators. Integrated drive generator is an AC generator having an output of 90KVA, whereas a starter generator is a DC generator having out of 30V capable of providing a power of 12KW. The eight digit classification of integrated drive generator would, therefore, be CTI 8501 62 00 and of starter generator would be CTI 8501 32 20. This view finds support from the decision of the Tribunal in **Lili Foam Industries (P) Ltd.** vs. **Collector of Central Excise**[18].

23. The appellant may have initially, at the time of import, classified the goods under CTH 8502, but once the re-assessment is opened by the department, the appellant can claim a classification that is different from the one claimed at the time of import. It needs to be noted that the change of classification is also revenue neutral as the rate of IGST for both the entry was 18% during the relevant period.

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18. 1990 (46) E.L.T. 462 (Tri.)

24. IC engine are engines where the combustion process takes place inside the engines. They are broadly classified into two types, namely reciprocating engines and gas turbine engines. In reciprocating engines, the function of intake, compression, combustion and exhaust all take place in the same combustion chamber. In gas turbine engines the function of intake, compression, combustion and exhaust take place separately. Gas turbine engines are of two types namely turboprop engines and turbofan engines.

25. It is, therefore, clear that in the working of a turboprop/turbofan engine, there are separate sections devoted to each function such as intake, compression, combustion and exhaust and all the functions are performed simultaneously. This working of turboprop/turbofan engines is entirely different from that of the reciprocating, spark-ignition IC engines and compression ignition IC engines.

26. The fact that a separate tariff heading is created for all gas turbines under CTH 8411 establishes that gas turbines engines are different from spark-ignition and compression ignition combustion engines which are covered under CTH 8407 and CTH 8408, respectively. Since the goods have been imported by the appellant for use in conjunction with gas turbine engines which are covered under CTH 8411, they cannot be classified under CTH 8511, as it covers only those generators which are used in conjunction with spark-ignition and compression ignition IC engines.

27. The finding recorded by the Principal Commissioner that CTH 8511 covers ‘IC engines of any kind’ and since turboprop/turbofan engines are types of IC engines, the goods are classifiable under CTH 8511 is not correct. It is seen from a perusal of HSN Explanatory Notes to CTH

8511 that the term 'any kind' has been used to refer to the internal design of an IC engines namely that IC engines could be either of 'piston type' or 'other types'.

28. The next issue that arises for consideration is whether the extended period of limitation under section 28(4) of the Customs Act could have been invoked in the facts and circumstances of the present case. In the present case, the show cause notice was issued on 01.07.2020 raising a demand for the period of 14.11.2017 to 01.08.2019. The demand under section 28(1) of the Customs Act for the normal period could have been raised only for two years. Thus, the demand for the period 14.11.2017 to 30.06.2018 is beyond the normal period.

29. The appellant has also provided details of the bifurcation of the demand within the normal period and the demand beyond the normal period:

Total Demand	**Time-barred demand [14.11.2017 to 30.06.2018]**	**Demand within normal period of limitation [01.07.2018 to 01.08.2019**
Rs. 14,99,21,553/-	Rs. 1,43,15,510/-	Rs. 13,56,06,043/-

30. The issue in the present appeals is about classification of the imported goods and not about the description of the goods in the Bills of Entry. The importer may have one view of the classification whereas the department may have another view on the classification. Mere mis-classification of the goods by the importer will not mean that the extended period of limitation can be invoked.

31. The Principal Commissioner, however, has held that the importer was statutorily required to self-assess the duty leviable on the imported goods but the appellant did not self-assess the duty liability correctly,

more particularly when the appellant had technical and legal support to self-assess the duty liability correctly.

32. This view of the Principal Commissioner for holding that the extended period of limitation could be invoked is not correct. It has been repeatedly held that merely because there is self-assessment by the importer will not mean that the extended period of limitation can be invoked. The classification adopted by the importer even if ultimately found to be not correct would not mean that the import by misclassifying the goods was with an intention to evade payment of duty.

33. This apart the classification adopted by the appellant has been found to be correct and the classification adopted by the department has been found not to be correct. In the facts and circumstances of the case, it cannot be said that the extended period of limitation was correctly invoked. It may, however, be added that the entire demand that has been confirmed is not covered by the extended period and only a portion of the demand confirmed is covered by the extended period of limitation.

34. Once the extended period of limitation has been found to be not correctly invoked, penalty under section 114A of the Customs Act cannot also be sustained as it can be imposed only where the duty has not been paid or short-paid by reason of collusion or any willful mis-statement or suppression of facts.

35. The last issue that arises for consideration is imposition of penalty on C.G. Logistics under section 117 of the Customs Act.

36. This section is a residuary provision providing for imposition of penalty on a person who contravenes any of the provision of the

Customs Act, where no express penalty is provided elsewhere in the Customs Act for such contravention. Penalty has been imposed upon C.G. Logistics on the ground that uniformity was not maintained by it in the classification of the goods while declaring the same in the Bills of Entry. The role of a customs house agent is confined to making entries on the basis of the documents provided by the importer and to facilitate proper filing of such documents. The customs house agent acted as per the instructions of the appellant. Penalty under section 117 of the Customs Act, therefore, could not have been imposed upon the C.G. Logistics.

37. Thus, for all the reasons stated above, the impugned orders dated 30.01.2023 and 23.09.2022 passed by the Principal Commissioner are set aside and all the three Customs Appeals are allowed.

(Order pronounced on **11.05.2026**)

(JUSTICE DILIP GUPTA)
PRESIDENT

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)

Jyoti