CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.

PRINCIPAL BENCH,
COURT NO. III

E-HEARING
CUSTOMS APPEAL NO. 54808 OF 2023

[Arising out of the Order-in-Original No. 59/2022-23/Simmi Jain/Principal Commissioner dated 13/02/2023 passed by The Principal Commissioner (Customs), New Delhi-110037.]

M/s Secure Diagnostics Private Limited, ……Appellant
I-33/DK-5, Danish Kunj, Kolar Road,
Bhopal, M.P.

Versus

Principal Commissioner (Customs), Air Cargo Complex (Import), ….Respondent
New Customs House, Near IGI Airport,
New Delhi – 110 037

WITH
CUSTOMS APPEAL NO. 54804 OF 2023

[Arising out of the Order-in-Original No. 59/2022-23/Simmi Jain/Principal Commissioner dated 13/02/2023 passed by The Principal Commissioner (Customs), New Delhi-110037.]

Reliance Raj Chaturvedi, ……Appellant
B-205, LIG Block, Kolar Road,
Bhopal, M.P. – 462 042.

Versus

Principal Commissioner (Customs), Air Cargo Complex (Import), ….Respondent
New Customs House, Near IGI Airport,
New Delhi – 110 037

AND
CUSTOMS APPEAL NO. 54803 OF 2023

[Arising out of the Order-in-Original No. 59/2022-23/Simmi Jain/Principal Commissioner dated 13/02/2023 passed by The Principal Commissioner (Customs), New Delhi-110037.]

Vishwas Gautam, ……Appellant
B-205, LIG Block, Kolar Road,
Bhopal, M.P. – 462 042.

Versus

Principal Commissioner (Customs), Air Cargo Complex (Import), ….Respondent
New Customs House, Near IGI Airport,
New Delhi – 110 037

APPEARANCE:

Shri Sandeep Mukherjee, Chartered Accountant for the appellant.
Shri Girijesh Kumar, Authorized Representative for the Department

CORAM:
HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 50963-50965/2026

DATE OF HEARING : 02.04.2026
DATE OF DECISION: 20.05.2026

P.V. SUBBA RAO

M/s. Secure Diagnostics Pvt. Ltd.[1] and its Directors **Shri Reliance Raj Chaturvedi**[2] and **Shri Vishwas Gautam**[3] filed these three appeals to assail the order dated 13.02.2023[4] passed by the Principal Commissioner insofar as it applies to each of them.

2. We have heard learned counsel for the appellants and learned authorised representative for the Revenue and perused the records. The key question to be answered is whether the Food Testing Kits imported by the importer were correctly classifiable under **Customs Tariff Item**[5] **3822 00 90** (as held in the impugned order) or under **CTI 3822 00 19** (as classified by the importer) and whether the importer was

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1. **importer**
2. **Chaturvedi**
3. **Gautam**
4. **impugned order**
5. **CTI**

entitled to the benefit of the exemption notification no. 50/2017-Cus dated 30.6.2017 (S.No. 167) (as asserted by the importer) or not (as held in the impugned order).

3. Both sides fairly submit that an identical question was before this Tribunal in **Illishan Biotech Pvt. Ltd.** versus **Principal Commissioner**[6] and in **Adinath Veterinary Products Pvt. Ltd.** versus **Commissioner of Customs, ACC (Import)**[7]and the issue was decided on merits against the importers and in favour of the Revenue.

4. Learned counsel for the appellant submits that he is only contesting invocation of extended period of limitation and imposition of penalties on the importer, Shri Chaturvedi and Shri Gautam.

5. After perusing the records, we find that the matter has, indeed, been decided in favour of the Revenue in the previous orders and we find no reason to differ from the previous decisions in this case. Accordingly, we hold in favour of the Revenue and against the importer on merits.

6. The finding of the Principal Commissioner on the question of invoking extended period of limitation is reproduced below:

> "37. In the light of findings as at para 32 and 33 above, I now take up the next question as to whether the demand of duty so

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6. (2025) 26 Centax 166 (Tri-Del)
7. 2025 (7) TMI 1269- CESTAT New Delhi

evaded by wrongly claiming the benefit of aforesaid Notification was liable to be demanded invoking the extended period of limitation as contained in section 28 (4) of the Customs Act, 1962. With the introduction of self-assessment by way of amendments to section 17, w.e.f. April 2011, a responsibility has been cast upon the importers to correctly determine and pay the duty applicable in respect of the imported goods. Having examined the facts of the case, I find that the noticee has misrepresented the description of the most of the impugned goods on the Bills of Entry as ELISA Tests kits for diagnostic use only. This phrase was added/given in the brackets against description of the test kit on the Bills of Entry. This showed that the words 'diagnostic use only' was added by the noticee with an intent to claim the benefit of the impugned notification which otherwise was not available to them in respect of food testing kits such as ELISA Hazelnut 48 wells, ELISA Sesame, ELISA Egg White, Sensitri almond, Sensitrip Shellfish, Sensitrip ELISA Mustard, Melamine A and such long lists of tests which were meant to be carried out on food items. Sh. Reliance Raj Chaturvedi, Director of the importer has admitted that the imported food testing kits are used to detect the level of Fungal Toxin in Food (Cereal, Grains, Feed RTE Food etc.) and Veterinary Drug Residue Elisa which are used to detect the level of Antibiotics in the Food (Milk, Honey Seafood, Meat etc.). He accepted that all the Food Testing Kits are being used to detect the toxin, allergens, veterinary drug resistance, pesticides etc. in the food items which are ultimate source of causing any of severe disease either in human or animals like cancer, drug resistance, liver and kidney diseases etc. He admitted that the Food Testing Kits imported by them are exclusively used for testing on Food Matrix and that they were neither being used for animal diagnosis nor for human diagnosis. This clearly showed that the importer misled the description of the impugned food testing kits as for diagnostic purposes so as to pick up the words 'Life saving drugs/medicines including their salts and esters and diagnostics test kits specified in List 4' as given in the impugned notification to claim the benefit given therein. I thus hold that the duty has been correctly demanded invoking the extended period of limitation under section 28 (4) of the Act".

7. Considering that the test kits were clearly not intended for diagnostics but were actually meant for food testing and were wrongly indicated as ' Diagnostic use only', we find that there was a clear mis-declaration with full knowledge that the kits were meant for food testing and not diagnostic use. Shri Chaturvedi and Shri Gautam were the directors of the company and were in full knowledge of its business and were responsible for it. In this factual matrix, we find that the invocation of extended period of limitation and imposition of penalties on the importer, Shri Chaturvedi and Shri Gautam also call for no interference.

8. In view of the above, the impugned order is upheld and all three appeals are dismissed.

(Order pronounced in open court on 20/05/2026.)

(BINU TAMTA)
MEMBER (JUDICIAL)

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

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