IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 75303 of 2026

(Arising out of Order-in-Original No. KOL/CUS/COMMISSIONER/PORT/GR.1/57/2025 dated 13.11.2025 read with Corrigendum dated 26.12.2025 passed by the Principal Commissioner of Customs (Port), Custom House, 15/1, Strand Road, Kolkata – 700 001, West Bengal)

M/s. M.P. Mica Enterprises Private Limited **: Appellant**
Bhudolia Bhawan, Kutia Road, Giridih,
Jharkhand – 815 301

VERSUS

Principal Commissioner of Customs **: Respondent**
Port Commissionerate,
15/1, Custom House, Strand Road,
Kolkata – 700 001

APPEARANCE:

Shri S.K. Mohapatra, Advocate,
Shri Arijit Goswami, Advocate,
For the Appellant

Shri Subrata Debnath, Authorized Representative,
For the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 75654 / 2026

DATE OF HEARING: 22.05.2026

DATE OF DECISION: 26.05.2026

ORDER: [PER SHRI K. ANPAZHAKAN]

The present appeal has been filed against the Order-in-Original No. KOL/CUS/ COMMISSIONER/PORT/GR.1/57/2025 dated 13.11.2025 (as corrected by Corrigendum dated 26.12.2025) passed by the Ld. Principal Commissioner of Customs (Port), Custom House, 15/1, Strand Road, Kolkata – 700 001, West Bengal.

2. M/s. M. P. Mica Enterprises Pvt Ltd, Jharkhand (hereinafter referred to as the "Appellant") have imported goods and filed Bills of Entry declaring the goods as **"Crude Mica Rifted into Sheets"** and claimed classification of the same under the Tariff Item 25251090 during self-assessment. The said goods have been described as **"Crude Mica Rifted into Sheets"** in all import documents, invoices, packing lists, etc. The description declared in the Bills of Entry exactly matched the overseas supplier's documents.

2.1. Based on intelligence developed by SIIB (Port), that the goods imported by the Appellant were actually 'PROCESSED MICA SHEETS OF REGULAR SHAPES & SIZES AND PLAIN EDGE," which fall under Tariff item 68149090 of the First Schedule to the Customs Tariff Act, 1975, the officers alleged that the Appellant had mis-classified the goods with a view to pay less Customs Duty. Basic Customs Duty (BCD) is 5% for goods under Tariff Item 25251090 but 10% for CTH 68149090, and Integrated Goods and Services Tax [IGST] is 5% for Tariff Item 25251090 versus 18% for CTH 68149090. Accordingly, samples were drawn from two consignments and sent to CRCL, Kolkata.

2.2. The CRCL reports stated that the samples **"appear to be processed mica"**. Based on the said reports, the Customs proposed reclassification of the goods pertaining to 2 live Bills of Entry and 72 past Bills of Entry (out of which 2 Bills of Entry had been provisionally assessed), by invoking extended period of limitation under Section 28(4).

2.3. A Show Cause Notice was issued demanding differential duty. After due process of adjudication, the impugned order has been passed confirming the demand of differential Customs duty of Rs.26,57,292/- for the two live and two provisionally assessed Bills of Entry and differential Customs duty of Rs. 4,89,96,957/- for the 70 past Bill of Entry under Section 28(4) of the Customs Act, 1962, along with confiscation under Section 111(m), redemption fine under Section 125 and penalties under Sections 112(a), 114A and 114AA of the Customs Act, 1962.

2.4. Aggrieved by the confirmation of the demands of Customs duty along with interest, confiscation of the goods and imposition of Redemption fines and imposition of penalty, the Appellant has filed this appeal.

3. The Ld. Counsel appearing on behalf of the Appellant submits that Customs Tariff Heading 2525 specifically covers "Crude Mica and Mica Rifted into Sheets". It is submitted that the description used by them in the Bills of Entry corresponds word-for-word with the tariff heading; that HSN Explanatory Notes recognize substantial processing within Heading 2525; the CTH 2525 covers processed Mica also; the heading excludes only products obtained by:

- cutting-out,
- die-stamping,
- agglomeration,
- reconstitution.

3.1. It is pointed out by the appellant that the Chapter Heading 6814 applies only where mica is further worked beyond rifting and trimming; the HSN notes to Heading 68.14 state that it covers:

> "Natural mica, further worked than merely rifted and trimmed (e.g., cut to shape)."

Thus, it is their case that the Department had to establish that the goods were:

- die-punched;
- cut to specific shape;
- agglomerated;
- reconstituted; or
- specially worked.

However, the Appellant argues that no such evidence has been brought on record by the Revenue and thus, the goods in question cannot be classified under the CTH 6814.

3.2. The Ld. Counsel for the Appellant submits that they use the imported goods as raw material for further punching, die-cutting and fabrication as per customer specifications; therefore, at the time of import the goods were not products "cut to shape" or intended for specific end-use.

3.3. It is further submitted by the appellant that the CRCL reports do not categorically conclude that the goods are classifiable under Heading 6814; that it merely states that the samples **"appear to be processed mica."** It is contended that the phrase "appears to be" is inherently tentative and cannot form the sole basis for reclassification involving enormous duty and penalties.

3.4. The Appellant stresses that "Processed" does not automatically mean classifiable under Heading 6814; that every mica sheet under Heading 2525 undergoes some degree of processing such as rifting and trimming; therefore, the finding that the goods "appear to be processed" does not automatically exclude it from the purview of Heading 2525.

3.5. It has the submission of the Appellant that classification is a legal issue and cannot be determined by laboratory test alone; a chemical laboratory may identify characteristics of goods, but the ultimate classification is a legal exercise requiring interpretation of tariff entries and HSN notes; that the CRCL reports do not opine about classification or report on the following:

- die-cutting,
- clean-cut edges,
- agglomeration,
- reconstitution,
- end-use.

Hence, the Appellant's contention is that it does not support classification under Heading 6814.

3.6. Additionally, the Ld. Counsel for the Appellant also makes the submission that when two classifications are reasonably possible, the view favourable to the assessee must be adopted. *He refers to the decision of the Hon'ble Supreme Court in Commissioner of Customs v. Dilip Kumar and Company [2018 (361) E.L.T. 577 (S.C.)]* wherein it has been clarified that while exemption notifications are construed strictly, tariff classification must still be based on the language of the tariff and HSN notes; in

case of any ambiguity in a taxing statute imposing tax liability on the assessee, benefit of doubt to be given to assessee. He submits that, in the present case, heading 2525 specifically mentions "mica rifted into sheets"; therefore, classification under 2525 is the most natural and specific classification.

3.7. Furthermore, the Appellant also highlights that in a pure classification dispute, mis-declaration cannot be alleged. In the present case, they have:

- Declared the goods exactly as described in supplier documents.
- Disclosed full particulars in Bills of Entry.
- Declared value, quantity and specifications correctly.
- Claimed classification openly under CTH 2525.

Thus, the Appellant submits that dispute, if any, is only whether the same goods fall under 2525 or 6814; a mere difference of opinion on classification cannot be equated with misdeclaration. Accordingly, it is their case that the extended period of limitation cannot be invoked to demand differential Customs duty for the past imports.

3.8. In support of the above contention, the Appellant places reliance on the following decisions:

1. *Collector of Central Excise v. Chemphar Drugs and Liniments [1989 (40) E.L.T. 276 (S.C.)],* wherein it has been held that suppression requires deliberate withholding of material facts.

2. *Dabur India Ltd. v. CCE, 2003 (153) ELT 660 (Tri.), affirmed by Hon'ble Supreme Court*

wherein it has been held that wrong classification does not amount to suppression.

3. *Television & Components Ltd. v. CCE, [2003 (157) ELT 529 (Tri.)], affirmed by Hon'ble Supreme Court* wherein it has been held that Classification dispute cannot justify extended limitation.

4. *Shaf Broadcast Pvt. Ltd. v. CCE, [2007 (207) ELT 554 (Tri.)]* wherein it has been held that **w**hen goods are fully described, misstatement cannot be alleged.

5. *Cast Metal Industries Pvt. Ltd. v. CCE, [2003 (162) ELT 498 (Tri.)]* wherein it has been held that classification disputes do not attract extended period.

3.9. Furthermore, the Appellant submits that to invoke Section 28(4), the Department must prove collusion, wilful misstatement, or suppression of facts, with intent to evade duty. None of these ingredients is present in this case; the Appellant made complete disclosure of description, quantity, value, country of origin, supplier details and the assessments were finalized by Customs after scrutiny. Accordingly, the Appellant strongly contends that the demand confirmed by invoking the extended period of limitation is unsustainable.

3.10. Without prejudice to the above, it has been stated by the appellant that the Department has sought to apply the CRCL findings on two consignments to the earlier consignments and this is impermissible because:

1. No samples were drawn from past consignments.

2. No evidence exists that each past consignment was identical in all respects.

3. Classification depends on physical characteristics of each consignment.

In this context, the Appellant submits that it is settled law that test results of samples obtained from available consignments cannot be mechanically applied to the goods of consignments cleared in the past because assumptions and extrapolation cannot replace evidence. Reliance in this regard is placed on the following decisions:

a) *Stonex India Pvt. Ltd. V. Commissioner of Customs, Mundra, reported in 2025 (391) E.L.T. 652 (Tri. – Ahmd.)*

b) *Penshibao Wang P. Ltd. V. Commissioner of Customs as reported in 2016 (338) E.L.T. 597 (Tri. – Chennai)*

3.11. Moreover, the Appellant also contends that confiscation of the goods under Section 111(m) of the Customs Act is not sustainable in this case; that Section 111(m) applies only where there is a material misdeclaration. Since the description was truthful, supplier documents matched the Bills of Entry, only classification is disputed, it is the Appellant's stand that there is no basis for confiscation.

3.12. Regarding the penalty imposed under Section 112, the Appellant submits that the penalty imposed under Section 112 of the Customs Act is not sustainable; that Section 112 requires conscious and deliberate acts rendering goods liable to confiscation; where the dispute concerns interpretation of tariff

entries, penalty is unwarranted. They submit that this principle has been recognized in the following decisions:

- *Ambassador Industrial Corporation v. CC, [2003 (156) ELT 141 (Tri.)];*
- *Mettaco Engg. Pvt. Ltd. v. CC, [2005 (182) ELT 210 (Tri.)].*

3.13. Regarding the penalty imposed under Section 114A, the Appellant submits that Section 114A requires wilful misstatement or suppression; since the ingredients of Section 28(4) fail, penalty under Section 114A automatically fails.

3.14. Regarding the penalty imposed under Section 114AA, the Appellant has made the submission that Section 114AA applies where a person knowingly uses or causes to be used false or incorrect documents; in the present case, the invoices were genuine, the packing lists were genuine and no document has been alleged to be fabricated. Hence, it is argued that Section 114AA has no application; this view has been accepted in the case of *Commissioner of Customs v. Sri Krishna Sounds & Lightings [2019 (370) E.L.T. 594 (Tri. - Chennai)].*

3.15. In view of the above submissions, the Ld. Counsel for the Appellant submits that the impugned order, confirming differential Customs duty along with interest, confiscating the goods in question and imposing Redemption Fines and penalties, is liable to be set aside.

4. The Ld. Authorized Representative of the Revenue appearing before us submits that the Test Reports received from CRCL indicates that the goods imported are processed Mica and hence the same are rightly classifiable under the CTH 6814.

4.1. Regarding demand of differential Customs duty for the past imports, the Revenue contends that the Appellant is a regular importer from Pamica Electric, China; they have been importing the same goods on earlier occasions also and declared the same as 'crude mica rifted into sheets' as declared in the present consignments. Accordingly, he submitted that the differential duty has been rightly confirmed for the past imports also under Section 28(4) of the Customs Act.

4.2. Thus, he prays for upholding the demands of duty, interest, order of confiscation and imposition of Redemption Fines and penalties as confirmed in the impugned order.

5. Heard both sides and perused the appeal documents presented before us.

6. We find that in this case, the Appellant imported the goods and filed Bills of Entry declaring the said goods as **"Crude Mica Rifted into Sheets"**, and claimed classification under the Tariff Item 25251090 during self-assessment. The Department is of the view that the goods imported are actually 'PROCESSED MICA SHEETS OF REGULAR SHAPES & SIZES AND PLAIN EDGE," which fall under Tariff item 68149090 of the First Schedule to the Customs Tariff Act, 1975. For reclassification of the goods, the Ld. Adjudicating authority has relied upon the Test Reports received from CRCL, Kolkata, in respect of two consignments. On the basis of the Test Reports

received, the adjudicating authority has reclassified the goods pertaining to 2 live Bills of Entry and 72 past Bills of Entry (of which 2 Bills of Entry had been provisionally assessed) by invoking the extended period of limitation under Section 28(4) of the Act.

7. Thus, we observe that the issues to be decided in the present Appeal are as under: -

(i) Whether the imported goods are correctly classifiable under CTH 2525 10 90.
(ii) Whether the CRCL report conclusively establishes classification under CTH 6814.
(iii) Whether extended period under Section 28(4) of the Customs Act, 1962 can be invoked.
(iv) Whether confiscation under Section 111(m) and penalties under Sections 112, 114A and 114AA are sustainable.
(v) Whether test results of two consignments can be mechanically applied to all past imports.

Issues (i) and (ii): Whether the imported goods are correctly classifiable under the CTH 2525 1090 or Whether the CRCL report conclusively establishes classification of the said goods under CTH 6814.

Issue (v): Whether test results of two consignments can be mechanically applied to all past imports

8. Classification of the goods and demanding differential Customs Duty in respect of the 2 live consignments:

8.1. CTH 2525 10 covers the goods with the following description:

"Crude mica and mica rifted into sheets or splittings."

The HSN notes to Heading 25.25 state that the heading includes:

- Crude mica;
- Mica sheets obtained by **rifting, cobbing and trimming** books;
- Mica splittings obtained by rifting.

Therefore, mica that has undergone:

- cleaning,
- splitting,
- trimming,
- shaping into sheets,

continues to remain within Heading 2525.

8.2. Description of the goods falling under the CTH 68.14 are furnished below:

> **68.14- Worked mica and articles of mica, including agglomerated or reconstituted mica, whether or not on a support of paper, paperboard or other material**.
>
> 6814.10- Plates, sheets and strips of agglomerated or reconstituted mica, whether or not on a support
>
> 6814.90- Other
>
> This heading covers natural mica, further worked than merely rifted and trimmed (e.g., cut to shape), and also products consisting of agglomerated

(bonded) mica or pulped (reconstituted) mica, and articles made from any of these materials.

Thin sheets and splittings obtained by merely rifting and trimming mica blocks as mined fall in **heading 25.25**.

8.3. We observe that samples have been drawn from the live consignments and tested by CRCL, Kolkata. The Test Reports received are as furnished below:

"The sample of the goods imported under Bill of Entry No. 8818052 dated 11.03.2025 were sent to CRCL, Kolkata vide Test Memo No. 14/2025 dated 01.04.2025. Consequently, CRCL Kolkata submitted test report vide Lab. No.14/68 Imp date 01.04.2025 duly signed on 17.04.2025. The test report is as below:

"Each of the two samples has got the characteristic of Mica.

Thickness-0.39 mm and 0.42 mm respectively.

Each is other than laminated mica.

Each of the two samples appears to be processed"

"The sample of the goods imported under Bill of Entry No. 9198035 dated 29.03.2025 were sent to the CRCL, Kolkata vide Test Memo No. 18/2025 dated 28.04.2025. Consequently, CRCL Kolkata submitted test report vide Lab. No.204/25 Imp date 30.04.2025 duly signed on 04.06.2025. The test report is as below:

Each of the two samples has got the characteristic of Mica. Thickness-0.66 mum and 1.06 mm.

Each of the two samples u/r appears to be processed. *Each of the two samples u/r is mixed with polymer/additives."*

8.4. From the above, it is seen that one Report says the samples appear to be of Processed Mica and the other Report indicates that the samples appear to be of Processed Mica and are mixed with polymers/additives. These Reports indicate that Raw Mica has been further worked and mixed with additives to obtain Processed Mica.

8.5. In this regard, we have gone through the findings of the Ld. Adjudicating authority in the impugned order to classify the goods under the CTH 6814 after analysing the relevant Chapter Notes and HSN Explanatory Notes. For ready reference the relevant paragraphs in the impugned order are extracted below:

"24.5 I find that the Classification must be determined primarily by the terms of the headings and any relative Section or Chapter Notes (General Rule for Interpretation 1) and the Chapter Note 1 of Chapter 25 explicitly states that the headings of this Chapter cover mineral products only in the crude state or those subjected only to simple processes like washing, crushing, grinding, etc., excluding products that are obtained by mixing or subjected to processing beyond those specified.

24.6 I further find that the physical examination conducted under Panchnama found the goods to be "MICA SHEETS OF VARIOUS REGULAR SHAPES & SIZES, PLAIN EDGE & THICKNESS" which "APPEAR TO BE OF PROCESSED & FINISHED SURFACE". WCO Explanatory Notes to CTH 2525 define "Mica sheets" as having the shape of irregular polygons with edges

roughly trimmed and bevelled. The description of the imported goods (regular shapes, plain edge) is fundamentally inconsistent with the definition of mica falling under CTH 2525.

24.7 I also find that in view of the findings from physical examination, laboratory analysis, and supplier verification, both consignments were seized under Section 110 of the Customs Act, 1962 on the grounds of misdeclaration of description and classification. B/E No. 8818052 dated 11.03.2025 was Seized on 23.04.2025 and B/E No. 9198035 dated 29.03.2025 was Seized on 17.06.2025. Subsequently, the consignment covered under 8818052 dated 11.03.2025 was provisionally released on 11.06.2025 against execution of a bond and bank guarantee of Rs. 38,00,000/ and Rs.10,00,000/- respectively and 9198035 dated 29.03.2025 was provisionally released 17.07.2025 against execution of a bond and bank guarantee of Rs.32,00,000/ and Rs. 6,50,000/- respectively, pending final adjudication.

24.8 I also find that the Director, Shri Subhash Bhudolia, admitted during his statement that the goods are processed in a machine to obtain the required shapes and sizes and that other resins might be used to strengthen cohesiveness. Shri Subhash Bhudolia (Director, M/s M.P. Mica Enterprises Pvt. Ltd.) admitted that the imported goods are mica sheets of various shapes, sizes, and thickness used for insulation, obtained by processing crude mica through mechanical means, though he maintained they fall under CTH 25251090 as "crude mica rifted into sheets." He acknowledged that some processing is required to make the material usable and that the term "processed" in the test report likely refers to this. He denied any intent to evade duty, calling it a technical classification issue, though he conceded that the goods have regular shapes and plain edges, unlike crude mica described in WCO Notes. Shri Prasanta Chakraborty (Customs Broker) confirmed that he had been handling similar imports for the same importer for several years and that the current consignments were of the same nature as earlier shipments.

24.9 I find that Chapter 68 covers "Articles of stone, plaster, cement, asbestos, mica or similar materials". The heading 6814 covers "Worked mica and articles of mica". Since the goods have been worked beyond the stage of crude mica (e.g.,

thermal processing, lamination, cutting to regular shape and size, and mixing with binders), they are appropriately classified as Worked Mica/ Articles of Mica. Therefore, the goods correctly merit classification under CTH 68149090 (Processed Mica Sheets of Regular Shapes & Sizes and Plain Edge).

24.10 The investigation determined that the imported goods are "processed mica sheets", based on consistent evidence from physical examination, CRCL laboratory reports, and the supplier's product catalogue. This finding contradicts Chapter Note 1 of Chapter 25, which restricts coverage to "mineral products only in the crude state." Since the goods are of regular shape and size with plain edges and, in one case, contain polymer/additives, they cannot be considered crude mica. Such processing places them within the scope of Chapter 68, which covers articles of mica and other worked mineral substances. Accordingly, the goods are held to be classifiable under CTH 68149090, confirming wilful misclassification under CTH 25251090 with the apparent intent to evade higher Customs duties."

8.6. From the categorical findings of the Ld. adjudicating authority extracted above, we find that the Ld. adjudicating authority has given a well-reasoned finding to arrive at the conclusion that the goods imported under the two live consignments are classifiable under the CTH 6814. The CRCL Test Report supports the findings that the goods imported under the two live consignments are Processed Mica, classifiable under the CTH 6814. We do not find any infirmity in the said findings and accordingly, uphold the classification of the goods imported under the two live consignments under the CTH 6814. Accordingly, we uphold the differential duty confirmed in respect of the goods imported under the said two live consignments.

9. Classification of the goods and demanding differential Customs duty in respect of the past 72 consignments:

9.1. We observe that the goods imported under 2 live consignments have been reclassified under the CTH 6814 on the basis of the samples drawn from the said consignments and the Test Reports received in respect of those consignments. In respect of the past 72 consignments, however, we find that the Department has not drawn any samples and no Test Report is available in respect of those goods. We also find that the goods imported under those 72 consignments were cleared after proper examination and assessment. Now, the Department wants to apply the CRCL findings in respect of the samples drawn from two consignments to classify the goods imported under the past 72 consignments, which were examined and cleared earlier. This is impermissible under law because no samples were drawn from the past consignments. No evidence exists to the effect that the goods imported under each of the past consignments were identical in all respects. It is a settled law that classification depends on physical characteristics of each consignment. It is also a settled law that test results of samples obtained from one consignment cannot be mechanically applied to the goods of other consignments cleared in the past because assumptions and extrapolation cannot replace evidence.

9.2. In support of the above view, we rely upon the decision in the case of *Stonex India Pvt. Ltd. V. Commissioner of Customs, Mundra, reported in 2025 (391) E.L.T. 652 (Tri. – Ahmd.),* wherein the Tribunal at Ahmedabad has held as under:

> *"….. we find that demand of Customs duty of past imports under Annexure B and C to SCN is also not sustainable on the ground that goods were not tested by department in respect of past imports in respect of which demand is made in Annexure-B and C to SCN. It is settled position of law that each Bill of entry is a separate assessment and test report of one bill of entry cannot be made applicable to the goods imported under another bill of entry."*

9.3. In the case of *Penshibao Wang P. Ltd. V. Commissioner of Customs as reported in 2016 (338) E.L.T. 597 (Tri. – Chennai),* the demand in respect of past clearances purely based on test report of live consignment was set aside by the Tribunal.

9.4. Thus, by relying on the ratio of the decisions cited supra, we hold that the Test Reports obtained in respect of the two live consignments cannot be made applicable to the goods cleared under the past 72 consignments.

9.5. In this regard, we observe that the Ld. Authorized Representative of the Revenue has submitted that the Appellant is a regular importer from Pamica Electric, China and that they have been importing the same goods on earlier occasions also and declared the same as 'crude mica rifted into sheets' as declared in the present consignments. We observe that the averment of Ld. Authorized Representative of the Revenue is not supported by any evidence. Just because the Appellant imported similarly described goods from the same supplier from China, it does not mean that the Appellant has imported identical goods on earlier occasions also

from the same supplier, particularly when the findings of the Test Reports of samples drawn from the two live consignments are not identical – one mentions presence of polymer/additive while the other does not. Accordingly, we hold that the Test Reports obtained in respect of the two live consignments cannot be made applicable to the goods cleared under the past 72 consignments. Thus, we hold that the demand of differential Customs duty confirmed in respect of the past consignments, including the two provisionally assessed consignments, on the basis of the Test Reports received for the two live consignments, is legally not sustainable and hence we set aside the same.

Issue (iii): Whether extended period under Section 28(4) of the Customs Act, 1962 can be invoked.

10. Regarding raising of the demand by invoking Section 28(4) of the Customs Act in this case, we find that the issue involved in this case is a pure classification dispute. It is on record that the Appellant has declared the goods exactly same as described in supplier's documents. They have disclosed full particulars in the Bills of Entry. They have declared value, quantity and specifications correctly. They have claimed classification as per their understanding under the CTH 2525. We observe that the dispute in this case is whether the said goods fall under CTH 2525 or 6814. Needless to say, a mere difference of opinion on classification cannot be equated with misdeclaration. In a classification dispute, mis-declaration cannot be alleged. Accordingly, we hold that extended period of limitation cannot be invoked

to demand differential Customs duty for the past imports in the facts and circumstances of the case.

10.1. In the case of ***Collector of Central Excise v. Chemphar Drugs and Liniments [1989 (40) E.L.T. 276 (S.C.)],*** it has been held that suppression requires deliberate withholding of material facts. In the case of ***Dabur India Ltd. v. CCE, 2003 (153) ELT 660 (Tri.), affirmed by Hon'ble Supreme Court*** it has been held that wrong classification does not amount to suppression. Further, in the case of ***Television & Components Ltd. v. CCE, [2003 (157) ELT 529 (Tri.)], affirmed by Hon'ble Supreme Court*** it was held that classification dispute cannot justify extended limitation. The Tribunal in the case of ***Shaf Broadcast Pvt. Ltd. v. CCE, [2007 (207) ELT 554 (Tri.)]*** has held that when goods are fully described, misstatement cannot be alleged. In the case of ***Cast Metal Industries Pvt. Ltd. v. CCE, [2003 (162) ELT 498 (Tri.)],*** it has been held that Classification disputes do not attract extended period.

10.2. We observe that to invoke Section 28(4), the Department must prove collusion, wilful misstatement, or suppression of facts, with intent to evade duty. None of these ingredients is present in this case. The Appellant made complete disclosure of description, quantity, value, country of origin, supplier details. The assessments were finalized by Customs after scrutiny. Accordingly, we hold that Section 28(4) cannot be invoked in this case and the demand confirmed by invoking the extended period of limitation is unsustainable and hence we set aside the same.

Issue (iv): Whether confiscation under Section 111(m) and penalties under Sections 112, 114A and 114AA are sustainable.

11. Regarding confiscation of the goods, we find that Section 111(m) applies only where there is a material misdeclaration. Since the description was truthful, supplier documents matched the Bills of Entry, we hold that there is no basis for confiscation. Accordingly, we set aside the confiscation of the goods in the impugned order. Consequently, the redemption fine imposed is also set aside.

12. Regarding the penalty imposed, we observe that penalty has been imposed under the Sections 112, 114A and 114AA of the Customs Act, 1962. For imposition of penalty imposed under Section 112 of the Customs Act, it is required to establish that there is a conscious and deliberate act rendering the goods imported liable to confiscation. However, in the present case, it is a case where the dispute involved is of interpretation of tariff entries. No penalty is warranted on such interpretational issues. This principle has been recognized in the case of *Mettaco Engg. Pvt. Ltd. v. CC, [2005 (182) ELT 210 (Tri.)].* Thus, relying on the ratio of the decisions cited supra, we hold that no penalty is imposable under Section 112 of the Customs Act, 1962 in this case. Accordingly, the penalty imposed under Section 112 is set aside.

12.1. Regarding the penalty imposed under Section 114A, we observe that for imposing penalty under this Section, wilful misstatement or suppression requires to be established. Since the ingredients of Section 28(4) fail in this case, we hold that penalty under Section 114A also automatically fails. Accordingly, we

set aside the penalty imposed under Section 114A of the Customs Act, 1962.

12.2. Regarding the penalty imposed under Section 114AA, we observe that Section 114AA applies where a person knowingly uses or causes to be used false or incorrect documents. In the present case, the invoices were genuine, the packing lists were genuine and no document has been alleged to be fabricated. Hence, we observe that Section 114AA has no application in this case. This view has been accepted by the Tribunal, Chennai in the case of *Commissioner of Customs v. Sri Krishna Sounds & Lightings [2019 (370) E.L.T. 594 (Tri. - Chennai)].* Accordingly, by relying on the ratio of the decision cited supra, we hold that penalty under Section 114AA is not imposable in this case and hence, we set aside the same.

13. In the result, we pass the following order:

(i) We hold that the imported goods under the two live consignments are correctly classifiable under the CTH 6814. Accordingly, the differential Customs duty along with interest confirmed in respect of the said two consignments by reclassifying the goods imported under CTH 6814 is upheld.

(ii) We hold that the test results of two live consignments cannot be applied to the past 72 imports. Accordingly, the differential Customs duty confirmed along with interest in respect of the past 72 consignments is set aside.

(iii) We hold that extended period of limitation under Section 28(4) of the Customs Act, 1962 cannot be invoked in this case.

(iv) We set aside the order of confiscation of the goods under Section 111(m) of the Customs Act, 1962. Consequently, the redemption fines imposed are set aside.

(v) We set aside all penalties imposed under Sections 112, 114A and 114AA of the Customs Act, 1962.

14. The appeal filed is disposed of on the above terms.

(Order pronounced in the open court on **26.05.2026**)

Sd/-

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd