CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. III

CustomsAppeal No.85153 of 2024

[Arising out of Order-in-Original No. 184/2023-24/Commr/Gr.I& IA/NS-I/CAC/JNCHdated 01.12.2023 passed by the Principal Commissioner of Customs (NS-I), JNCH, NhavaSheva]

Varun Beverages Ltd **..... Appellant**
Plot No. A-7, B-11 & C-31,
Indl. Growth Center,
CPO, Ranipur, Punjab

Versus

Commissioner of Customs, NhavaSheva-I **.... Respondent**
JNPT, Custom House, NhavaSheva, Raigad 400 707

APPEARANCE:

Shri Prabhat Kumar, Advocatefor the Appellant
Shri Deepak Sharma,Authorised Representativefor the Respondent

CORAM:

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 85639/2026

Date of Hearing: 15.04.2026
Date of Decision: 08.05.2026

PER: P. ANJANI KUMAR

M/s Varun Beverages Ltd.[1] filed this appeal No. C/85153/2024, against the Order-in-Original, No. 184/2023-24/Commr/Gr.I&IA/NS-1/CAC/JNCH dated 01.12.2023, passed by Principal Commissioner of Customs, NhavaSheva.

2. Briefly stated the facts of the case are that the appellant imported 'Mandarin (Kinow) Frozen Concentrate' and filed 26 Bills of Entry between 2019–2021**,** classifying the goods under Tariff entry 2009 1100 (chargeable to Customs duty @ 35% and IGST @12%). During the audit of company's records, it was pointed out by the audit team that the goods should have been classified under Tariff entry 2009 3900 (Juices of any other single citrus fruit – other), chargeable to Customs duty @ 50% and IGST @12%)

[1] **the appellant**

and that the alleged misclassification resulted in a shortfall of ₹3,09,25,503/-. Accordingly, a Less Charge-cum-Demand Notice dated 05.05.2021 and subsequently, a Show Cause Notice dated 15.12.2022 were issued seeking to reclassify the impugned goods under CTI 2009 3900; demanding differential duty amounting to ₹3,09,25,503/-, along with applicable interest under Section 28AA; confiscation of impugned goods under Section 111(m) of the Customs Act, 1962 and proposing to impose penalty under Section 112(a) and/or Section 114A of the Customs Act, 1962. By a corrigendum dated 15.12.2022, duty demand was revised to ₹3,10,28,387/-.Principal Commissioner of Customs passed the impugned Order-in-Original No. 184/2023-24/Commr/Gr I&IA/NS-1/ CAC/ JNCH, dated 01.12.2023,classifying the imported goods under Tariff Entry 2009 3900; confirming demand of duty of Rs.3,10,28,387/-, along with interest; confiscating the goods while giving option redeem on payment of a fine of ₹5,50,00,000/- and imposing a penalty of ₹3,10,28,387/- under Section 114A.

3. Shri Prabhat Kumar, Learned Counsel for the appellant, submits that impugned goods imported, namely, Mandarin (Kinow) Frozen Concentrate' are correctly classifiable under CTI 2009 1100 due to the description, trade, and commercial nomenclature of the goods; the relevant tariff entries read with applicable Section/ Chapter Notes under the Customs Tariff Act; the Explanatory Notes to the Harmonised System of Nomenclature (HSN) and the binding judicial precedents on the issue. He submits that for classification, the terms of the heading, relevant chapter, and section notes must be referred to as per the Rule 1 of General Rules for the Interpretation of import tariff. He submits that the impugned item is not defined in the Customs tariff; no section or chapter note in Chapter 20 specifically applies to this item. He submits that the commissioner takes support of the Section or chapter notes, of Chapter 8, to arrive at the classification under Chapter 20. The same is not permissible. Just as mandarin oranges and oranges have a separate classification in Chapter 8, it cannot be concluded that their pulp /juices are to be separately classified under Chapter 20 also. U.S. Customs Ruling NY N301712, dated December 6, 2018 clarified that mandarins and oranges are same.

4. Learned Counsel submits further that as the Customs Tariff does not define "Mandarin-(Kinow) Frozen Concentrate," classification must follow

the Trade and Commercial Parlance Test i.e. based on how they are commonly recognized in the market.

- Ministry of agriculture, Government of India considers that mandarin is a group name for a class of oranges with thin, loose peel(Source: https://agmarknet.gov.in/ Others/preface-mandarin.pdf)
- Wikipedia says that the mandarin orange (*Citrus reticulata*), also known as the mandarin or mandarine, is a small citrus tree fruit. Treated as a distinct species of orange.
- "S & J Mandarin Grove"(https://www.sandjmandarins.com) informs that mandarins are a type of orange
- Medical News Today article mentions mandarins are oranges while explaining the health benefits of mandarin oranges?" by mandarins are referred to as mandarin oranges (https://www.medicalnewstoday.com/ articles/mandarin-orange).
- Food Struct**"**also shows that Mandarin is just another variety of Oranges.(https://foodstruct.com/compare/oranges-vs -mandarin)
- India MART" confirms that "mandarin" is commonly referred to as "mandarin orange" in trade and commerce**:**(https://www.indiamart.com/proddetail/kinnow-fruit-plant-23077870333.html).
- E-commerce site "Pluckk" confirms that, in trade and commerce, "mandarin" is commonly known as "mandarin orange.: (https://pluckk.in/orange-mandarin-imported)
- The Spruce Eats website mentions mandarins are oranges (https://www.thespruceeats.com/what-are-mandarin oranges1807684)

5. Learned Counsel submits also that upon import, impugned goods are packaged after processing and marketed as orange juice, not as mandarin juice and accordingly classifiable as held in State of Punjab Versus Federal **GogulGoetze (India) Ltd.**[2]. Mandarin should be classified under "Oranges" as it is recognized as a variety of orange as held in **Commissioner of Commercial Taxes, U.P vs A.R. Thermosets (Pvt.) Ltd**[3].He submits that a look at the CTH 2009, indicates that the legislature did not create a separate heading for mandarin and Clementine juices, recognizing them as mere varieties of orange juice. He submits that interpretation of Tariff must be literal, without additions or deletions; Customs officers cannot classify Impugned goods under 'Juice of any other

[2] [**2011 (267) ELT 602 (P &H)]**
[3] [**2016 (339) ELT 500 (S.C.)]**

single citrus fruit' (CTI 2009 3900) if the legislation does not specify it as held in **Ald Automotive Ltd Vs Commercial Tax Officer**[4]; Mandarin juice cannot be classified under the residual category, when there is a specific heading. He submits that the Hon'ble Supreme Court has consistently held that when an item is covered by a specific tariff heading, it cannot be classified under a residuary category:

- **Commissioner of C. Ex., Bhubaneswar-I Vs Champdany Industries Ltd.**[5]
- **Commissioner of Commercial Tax, U.P Versus A.R. Thermosets (Pvt.) Ltd.**[6]
- **Dunlop India Ltd. & Madras Rubber Factory Ltd. Vs Union of India &Others**[7]
- **Bharat Forge & Press Industries (P) Ltd. Versus Collector of C. Ex.**[8]
- **Daikin Air-Conditioning India P. Ltd Pr. Commissioner of Customs (NS-I), JNCH, NhavaSheva, Raigad**[9]
- **State of Punjab Vs Federal GogulGoetze (India) Ltd.**[10]
- **Oswal Agro Mills Ltd Vs Collector of Central Excise**[11]
- **HemrajGordhandas Vs H. H. Dave Assistant Collector of C. Ex. & Customs**[12]

6. Learned Counsel submits in addition that import data available indicates that as a consistent practice, impugned goods are classified under CTI 2009 1100 and there is no justification for deviating from the established classification; onus of correct classification lies with the department as held in the following decisions:

- **Commissioner of Customs & Central Excise, Amritsar Vs D.L. Steels**[13]
- **Saint Gobain Glass India Ltd Vs Commissioner of Customs (Air), Chennai**[14]
- **Commissioner V. Atlantic Spinning & Weaving Mills Ltd.**[15]

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[4]**[2018 (364) ELT 3 (S.C.)]**
[5]**[(241) ELT 481 (S.C.)]**
[6]**[2016 (339) ELT 500 (S.C.)]**
[7]**[1983 (13) ELT 1566 (S.C.)]**
[8]**[1990 (45) ELT 525 (S.C.)]**
[9]**[2020 (374) ELT 768 (Tri. - Mumbai)]**
[10]**[2011 (267) ELT 602 (P &H)]**
[11]**[1993 (66) ELT 37 (S.C.)]**
[12]**[1978 (2) ELT J 350 (S.C.)]**
[13]**[2022 (381) ELT 289 (S.C.)]**
[14]**[2014 (313) ELT 680 (Tri. - Chennai)]**

- **Atlantic Spinning & Weaving Mills Ltd Vs CC&E Goa 2002**[16]

7. Learned Counsel submits on the issue of extended period of limitation, imposition of fine and penalty that it is settled law that the extended period of limitation does not apply to classification disputes;the extended period cannot be invoked as there was no suppression or misdeclaration with intent to evade payment of duty; Section 111(m) comes in to force if any misdeclaration is there; the issue involves classification of goods and interpretation of the provisions of the Tariff; all declarations in the Bill of Entry, Invoices and other documents have been made correctly; there is no case of suppression in any form; no misdeclaration/ suppression can be alleged in case of Classification Dispute; it is a settled principle of law that mere difference of opinion on classification of goods does not lead to a charge of misdeclaration leading to confiscation of the goods and imposition of penalty. He submits that as the goods were already released and cleared, confiscation cannot be upheld and fine be levied. In support of his contentions, he relies on the following.

- **Pahwa Chemicals Pvt. Ltd. V/s CCE, Delhi**[17]
- **Uniworth Textiles Ltd. V/s CCE, Raipur**[18]
- **CCE, Mumbai – IV V/s Damnet Chemicals Pvt. Ltd.**[19]
- **Anand Nishikawa Co. Ltd. Vs CCE, Meerut 2005**[20]
- **Tamil Nadu Housing Board Vs CCE, Madras**[21]
- **CC, Mumbai V/s M.M. K. Jewelers**[22]
- **Dr. Reddy's Laboratories Ltd Vs CC Hyderabad**[23]
- **Createx Industries Vs CC (Prev.), Mumbai**[24]
- **Northern Plastics Vs Collector of Customs and Central Excise**[25]
- **CC Vs Gaurav Enterprises**[26]
- **Nuvoco Vistas Corporation Ltd. Vs CCE, JSR**[27]

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[15]**[2003 (152) ELT A105 (S.C.)]**
[16]**[(145) ELT 324 (Tri. - Mumbai)]**
[17]**[2005 (189) ELT 257 (S.C.)]**
[18]**[2013 (288) ELT 161 (S.C.)]**
[19]**[2007 (216) ELT 3 (S.C.)]**
[20]**[(188) ELT 149 (S.C.)]**
[21]**[1994 (74) ELT 9 (S.C.)]**
[22]**[2008 (225) ELT 3 (S.C.)]**
[23]**[2004 (175) ELT 565 (Tri. - Bang.)]**
[24]**[2003 (160) ELT 826 (Tri. – Mumbai)]**
[25]**[1988 (101) ELT 549 (S.C.)]**
[26]**[2006 (193) ELT 532 (BOM.)]**

- **Sirthai Super ware India Ltd. Vs CC, NhavaSheva-III**[28]
- **Commissioner V. Finesse Creation Inc**[29]
- **CC (Import), Mumbai Vs Finesse Creation Inc**[30]
- **Bussa Overseas & Properties P. Ltd. Vs C.L. Mahar, ACC, Bombay**[31]
- **CC (Exports) Vs Sudarshan Cargo Pvt. Ltd.**[32]
- **Shiv KripaIspat Pvt. Ltd. Vs CCE&C, Nasik**[33]
- **Commissioner V. Rishi Ship Breakers**[34]
- **Elder Pharmaceuticals Vs CC (Import) JNCH, NhavaSheva**[35]
- **CCE&ST, Hyderabad-II Vs G.M.K. Products Pvt. Ltd.**[36]
- **CC, Amritsar Versus Raja Impex (P) Ltd**[37]
- **CESTAT Delhi in CC(Preventive) Jaipur vs. Pelican Quartz Stone**[38]
- **Steel Authority of India Ltd. Vs CCE&C Bhubaneswar**[39]
- **CC (Import), NhavaSheva Vs Vodafone Essar Gujarat Ltd**[40]
- **Sirthai Super ware India Ltd Versus CC, NhavaSheva**[41]
- **InditaliaRefcon Ltd Vs CCE &Cus., Raigad**[42]
- **South City Motors Ltd. Vs CST, Delhi**[43]

8. Learned Counsel submits that Commissioner's reliance on the Hon'ble Madras High Court's decision in **Visteon Automotive Systems India Ltd. v. CESTAT, Chennai**[44] is misplaced, as the judgment overlooks two earlier decisions of Bombay High Court in **CC (Import), Mumbai Vs Finesse Creation Inc**[45] and in **Bussa Overseas & Properties P. Ltd. Vs C.L.**

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[27]**[2019 (370) ELT 321 (Tri. - Kolkata)]**
[28]**[2020 (371) ELT 324 (Tri. - Mumbai)]**
[29]**[2010 (255) ELT A120 (S.C.)]**
[30]**[2009 (248) ELT 122 (BOM.)]**
[31]**[2004 (163) ELT 304 (BOM.) and 2004 (163) ELT A160 (S.C.)]**
[32]**[2010 (258) ELT 197 (BOM.)]**
[33]**[2009 (235) ELT 623 (TRI. - LB)]**
[34]**[2015 (318) ELT A259 (BOM.)]**
[35]**[2019 (370) ELT 1380 (TRI - Mumbai)]**
[36]**[2020 (373) ELT 692 (TRI. - Hyd.)]**
[37]**[2008 (229) ELT 185 (P & H)]**
[38]**[Customs Appeal Nos. 50324/2021, 50204/2021, 50196/2025, and 51692/2021 (decided on 26.05.2025)]**
[39]**[2022 (382) ELT 10 (S.C.)]**
[40]**[2020 (373) ELT 421 (TRI. - Mumbai)]**
[41]**[2020 (371) ELT 324 (TRI. – Mumbai) –III]**
[42]**[2013 (293) ELT 387 (TRI. - Mumbai)]**
[43]**[2012 (25) S.T.R. 483 (TRI. - DEL.)]**
[44]**[2018 (9) G.S.T.L. 142 (Mad.)]**
[45]**[2009 (248) ELT 122 (BOM.) (Affirmed by the Supreme Court2010 (255) ELT A120 (S.C.)]**

Mahar ACC, Bombay[46]. He further relies on **Shiv KripaIspatPvt Ltd Vs CCE&C Nashik**[47] and **Rishi Ship Breakers**[48]

9. Shri Deepak Sharma, Learned authorised representative for the revenue, reiterates the findings of the impugned order and submits that the Commissioner correctly pointed out that the Customs Tariff is structured to make a distinction between "Oranges" (CTI 08051000) and "Mandarins" (CTI 08052100); the clear legislative intent to treat them as distinct fruits extends to their juices too; reliance on the general interpretation of "Mandarin" from sources like Wikipedia and other e-commerce sites is not relevant in view of the specific classification rules within the Customs Tariff; commissioner's finding is consistent with the Harmonized System (HS) Nomenclature, which also has separate codes for these fruits and their juices. He submits that the appellant's claim that the classification scheme of Chapter 8 cannot be "imported" into Chapter 20, is incorrect; it is not the case of the that there's a specific heading for Mandarin juice; however, they argue that it cannot be placed in the "residual" category. He submits that various sections and chapters of the Customs Tariff are interconnected and mutually inclusive and not isolated; CTH 2009 clearly provides specific entries for certain citrus juices (like Orange and Grapefruit) and a broad, residual category for "Juice of any other single citrus fruit; commissioner was correct in holding that as Mandarin juice is not explicitly named, the legislative intent is to classify it under this residual heading; there are specific entries for Orange and Grapefruit juices are treated separately, leaving all other single citrus fruit juices, like Mandarin, to the general category.

10. Learned authorised representative submits that the importer, a reputed company with legal resources, willfully misclassified the goods which leads to the conclusion that it's a case of suppression of material facts and willful misstatement with the intent to evade duty, which justifies invoking the extended period of limitation under Section 28(4); penalty under Section 114A is thus rightly imposed. He submits that the concept of "assessment" under the Customs Act, 1962, has undergone significant changes, particularly with the introduction of self-assessment; onus of correct duty determination shifted from the customs officer to the

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[46]**[2004 (163) ELT 304(Bom) (affirmed in (2004 (163) ELT A160 (S.C.)]**
[47]**[2009 (235) ELT 623 (TRI. - LB)]**
[48]**[2015 (318) ELT A259 (Bom).]**

importer; wrong assessment a form of suppression; with effect from April 8, 2011, the Customs Act was amended to include a new, broader definition of "assessment" that explicitly includes self-assessment. He submits that as per the new definition "assessment" means the determination of duty liability taking in to account classification of goods as per tariff, the value of goods, applicability of any exemptions, origin of goods, quantity, weight, volume, or other specifics of the goods etc. He submits that physical availability of goods is not necessary for imposing a redemption fine; power to impose a redemption fine stems from the authorization to confiscate the goods, not their physical presence; the goods were held to be liable for confiscation because the importer's misleading declaration falls under Section 111(m) of the Customs Act.

11. Heard both sides and perused the records of the case.

12. The issue involved in the case is in a narrow compass i.e. whether the orange/mandarin juice concentrate is classifiable under CTI 2009 1100 as per the appellants or under CTI 2009 3900 as per Revenue. It is the case of the Revenue that there is a separate classification for oranges and mandarins under Chapter 8 and therefore, the imported mandarin juice concentrate cannot be classified as orange juice but falls squarely under the juice/concentrates under other citrus fruits.

13. The argument of the appellants is that

- Items are to be classified under respective entries subject to Chapter/Section notes and the classification under Chapter 8 cannot be carried on to Chapter 20.
- Oranges are commercially known as Mandarin Oranges and are not different species from Oranges.
- The online sellers of mandarin refer the fruit to be Mandarin Orange; so does the technical Literature.
- The appellants are selling the imported juice concentrate as orange juice after processing.

15. In addition to the above, there is a dispute regarding the applicability of extended period of limitation.

16. We find that it will be necessary to have a look at the rival entries in the tariff. Chapter 8 of the First Schedule to the Customs Tariff Act, 1975

has the following classification as far as Citrus Fruit, Fresh or dried are concerned.

0805		***CITRUS FRUIT , FRESH OR DRIED***			
0805 10 00	*-*	*Oranges*	*kg .*	*30 %*	*30 %*
	-	***Mandarins(including tangerines and satsumas); clementines, wilkings and similar citrus hybrids***			
0805 21 00	*--*	*Mandarins (including tangerines and satsumas)*	*Kg .*	*30 %*	*-*
0805 22 00	*--*	*Clementines*	*Kg .*	*30 %*	*-*
0805 29 00	*--*	*Other*	*Kg .*	*30 %*	*-*
0805 40 00	*-*	*Grapefruit and pomelos*	*kg .*	*25 %*	*15 %*
0805 50 00	*-*	*Lemon (Citrus limon, Citrus limonum) and limes (Citrus aurantifolia , Citrus latifolia)*	*kg .*	*30 %*	*30 %*
0805 90 00	*-*	*Other*	*kg .*	*30 %*	*20 %*

16.1. Chapter 20 of the First Schedule to the Customs Tariff Act, 1975 has the following classification as far fruit or nut juices (including grape must and coconut water) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter are concerned.

2009		***FRUIT OR NUT JUICES (INCLUDING GRAPE MUST AND COCONUT WATER) AND VEGETABLE JUICES, UNFERMENTED AND NOT CONTAINING ADDED SPIRIT, WHETHER OR NOT CONTAINING***			

		ADDED SUGAR OR OTHER SWEETENING MATTER			
	-	***Orange juice :***			
2009 11 00	*- -*	*Frozen*	*kg.*	*35%*	*-*
2009 12 00	*- -*	*Not frozen, of a Brix value not exceeding 20*	*kg.*	*35%*	*-*
2009 19 00	*- -*	*Other*	*kg.*	*35%*	*-*
	-	***Grapefruit juice; pomelo juice:***			
2009 21 00	*- -*	*Of a Brix value not exceeding 20*	*kg.*	*50%*	*-*
2009 29 00	*- -*	*Other*	*kg.*	*50%*	*-*
	-	***Juice of any other single citrus fruit:***			
2009 31 00	*- -*	*Of a Brix value not exceeding 20*	*kg.*	*50%*	*-*
2009 39 00	*- -*	*Other*	*kg.*	*50%*	*-*

17. It is seen that whereas oranges are classified under CTI 08051000, Mandarins are classified under CTI 08052100. Other citrus fruits are classifiable under CTI 08059000. It can also be seen that Chapter Heading 2009 covers fruit and vegetable juices. Orange Juice is sub-classifiable as Frozen (item 2009.11.00); Not Frozen (item 2009.12.00) and others (item No 2009.19.00). Grapefruit Juice; pomelo Juice are covered under CTI 20092100(Brix value not exceeding 20) and CTI 20092900 others. Single Citrus Fruit Juice is classifiable under 2009.31.00 (Brix value not exceeding 20) and 'others' under sub-heading 2009.39.00. The HSN Explanatory Notes to Heading 20.09 expressly confirm that juice concentrates are classifiable within this heading. The Explanatory Notes further clarify the role of the Brix value in distinguishing concentrated from non-concentrated

juices. The relevant extract of the HSN Explanatory notes to CTI 20.09 reads:

> *"The Juices of this heading may be **concentrated** (Whether or not frozen) or in the **form of crystals or powder** provided, in the latter case, that they are entirely or almost entirely soluble in water. Such products are usually obtained by processes involving either heat (whether or not in a vacuum) or cold (lyophilisation).*
> *Certain concentrated juices can be distinguished from their corresponding non-concentrated Juices on the basis of their Brix value (see Subheading Note 3 to this Chapter)."*

17.1. The meaning of "Brix value" is clarified under Subheading note 3 of chapter 20, which provides:

> *"For the purposes of subheadings 2009.12, 2009.21, 2009.31, 2009.41, 2009.61 and 2009.71, the expression "Brix value" means the direct reading of degrees Brix obtained from a Brix hydrometer or of refractive index expressed in terms of percentage sucrose content obtained from a refractometer, at a temperature of 20 °C or corrected for 20 °C if the reading is made at a different temperature"*

18. The critical classification question is whether Mandarin Orange Concentrate is classifiable under **2009 11 00 to 2009 19 00** (Orange juice) or under **2009 31 00 / 2009 39 00** (Juice of any other single citrus fruit). We find that the appellant has placed reliance on the information available on various dictionaries and web sites. We find that Encyclopedia Britannica article on family "Rutaceae" provides that:

> *"The family contains economically important fruits. Citrus species include the lemon (Citrus ×limon), sour orange (C. ×aurantium), **sweet orange (C. ×sinensis),** lime (C. ×aurantifolia), **tangerine and mandarin orange (C. reticulata),** grapefruit (C. ×paradisi), and citron (C. medica). All of these are grown for their fruits. Other regionally important fruits are the kumquat (Fortunella species), bael fruit (Aegle marmelos), wood apple (Limoniaacidissima), and Japanese pepper (Zanthoxylumpiperitum)."*
>
> …..(Emphasis Supplied)

19. Thus, it can be seen that mandarin orange is a citrus fruit species with taxonomic name ***C. reticulata***, which falls under the family of Rutaceae.

The mandarin is a botanically and commercially distinct species from the orange. Although the trade name "mandarin orange" is sometimes used colloquially, the two are recognised as separate species in botanical taxonomy, and critically, in the HSN nomenclature itself. The Harmonized System) separately identifies "Mandarins (including tangerines and satsumas); clementines, wilkings and similar citrus hybrids" as a category distinct from "Oranges." It appears that accordingly, mandarin orange juice cannot be classified under the "Orange juice" sub-headings. It must be classified under the residuary citrus sub-heading, i.e., "Juice of any other single citrus fruit."

20. Having seen that Oranges and Mandarins are botanically separate species, we examine the reliance placed by the appellants. The appellants rely on data available on various websites and submit that Trade and commerce considers mandarins are one type of oranges only and thus, the mandarin orange concentrate should be classified as orange concentrate. Ongoing through some of the references submitted by the learned counsel for the appellants, we find that trade too is aware of the distinction. It is another point that the difference may not be relevant for some uses.

21. We find that Food Struct informs that Oranges and mandarin oranges seem like two different sizes of the same thing. Belonging to the same *Rutaceae* family and *Citrus* genus they definitely have a lot in common, however they have their differences too. (https://foodstruct.com/compare /oranges-vs-mandarin-orange). Similarly, S.J. Mandarin Grove also gives to understand that Unsure of the differences between these small citrus fruits, many people confuse often oranges, mandarins, Tangerines, Clementines, and Satsumas. In fact, throughout the United States, the terms mandarin and tangerine are used interchangeably, even though they are not the same thing (https://www.sandjmandarins.com/whats-the- difference-between-oranges-mandarins-satsumas-clementines-tangerines. Thus, it cannot be said that the trade perceives both oranges and Mandarin Oranges as one is incorrect.

22. We find that the appellants rely on the nomenclature used by Ministry of Agriculture, Government of India vis'a'vis oranges and Mandarin Oranges. We find that the paper titled 'Development of Potential Value Chain -Kinnow / Mandarin- Study of Gaps in Infrastructure & Processing

Facilities In Identified Clusters', prepared by Ministry of food processing industries, Government of India, for the Operation Greens September 2021 accepts that Kinnow and oranges are different. The paper says at Section 3 Introduction as follows:

> *"Kinnow / Mandarin, commonly pronounced as Kinoo or Kinu is a citrus fruit largely cultivated fruit of North India, and Punjab holds the major share of Kinnow / Mandarin producing area of the country, with other states including Rajasthan, Haryana, Madhya Pradesh, Himachal Pradesh, Jammu, and Kashmir. Kinnow / Mandarin fruit is a hybrid of two varieties viz. Citrus nobilis and Citrus deliciosa. it is commonly confused with Oranges, due to the similarity in their appearances, seasonal availability and nutritional benefits offered by both the fruits. However, they can be distinguished based on biological origin, color, skin, taste as well as price. Kinnow / Mandarin has generally a good sweet & sour taste and darker bright. Kinnow / Mandarin fruits comprise a high amount of juice content, making them ideal for extracting juice and pulp."*

23. In view of the above, we find that he appellant's claim that Mandarin (Kinnow) Frozen Concentrate is classifiable under Tariff Item 2009.11.00 as orange juice, is not acceptable. Further, we find that the appellant's contention that a distinct entry under CTH 0805 of Chapter 8, does not constitute a basis for classification under CTH 2009, is not acceptable. We find that items are to be classified in terms of the heading, relevant chapter, and section notes must be referred to as per Rule 1 of General Rules for the Interpretation of import tariff. If the legislature intended that orange juice is to be classified under Tariff Item 20091100, it is the orange juice that gets classified under that head and not any other juice which could be either akin to are interchangeably used. A look at the Tariff entries indicates, there are only a few entries i.e. 20091100, 202091200, 20091900, 20092100, 20092900, 20093100, 20093900 etc, available for juices of citrus fruits. It can be seen that wherever the legislature intended to include certain fruit they have done so. For example, 20092100, 20092900 refer to Grape fruit Juice and the entry includes pomelo juice too. This is not the case of orange juice. If it was the intention of the legislature to classify orange and mandarin orange juices under one entry,

they would have specified so. The intention of the legislature to treat orange and mandarin orange separately, is evident from the separate entries under Chapter 8 for oranges and mandarin oranges. Though we find that appellant's argument that the scheme of Chapter 8 can not be carried to arrive at the classification of goods under Chapter 20, is acceptable, it helps to understand the intention of the legislature. Moreover, as the terms of the headings under Chapter 20 being clear and clarified by the Explanatory Notes, there is no scope for a different interpretation.

24. Grapefruits and pomelos are classified under 0805 40 00 and Grapefruit Juice, pomelo Juice are covered under item 20092100 (Brix value not exceeding 20) and others under 20092900. The grouping together of Grapefruits and pomelos in Chapter 8 was continued in Chapter 20. Oranges and mandarins are separately classified under Chapter 8. It shows the intention of the legislature not to classify Oranges and mandarins together either under Chapter 8 or under 20. Thus, the only logical conclusion that one gets is that the classification of mandarin juice/extract is to be made as those of other the juices of Citric Fruits.

25. It is interesting to see that Grapefruit and Pomelo share the same relation as orange and mandarin. As per information available on the website scienceinsights.org, Grapefruit is actually a hybrid of the pomelo and the sweet orange, which means these two fruits are relatives, not twins. The pomelo (Citrus maxima) is one of the original, non-hybrid citrus species, while grapefruit (Citrus x paradisi) is its descendant, a cross that likely occurred naturally in Barbados sometime in the 1700s. Despite sharing a family tree, the two fruits differ noticeably in size, taste, texture, and even how they interact with medications.
https://scienceinsights.org/What-is-the-difference-between-Grapefruit-and- Pomelo/

26. www.tastingtable.com informs that *when it comes to pomelos and grapefruits, the similarities and/or differences may be a little hazier, particularly with the large and in charge pomelo, which isn't used nearly as much as its citrus cousins. The two biggest fruits of the bunch may look similar, but they are definitely not the same.*

https://www.tastingtable.com/1187318/the-difference-between-a-pomelo-and-a-grapefruit/

27. We find that the reliance by the appellant on a U.S. Customs Ruling NY N301712, is of no help for the reasons that there is no confusion or scope for doubt as regards the entries in Indian Customs Tariff and as we are not bound by the said Ruling. Learned Counsel for the appellants argues that India has not adopted the HSN Explanatory Notes to Chapter 20. Be it so, they do remain a guiding light for understanding and interpreting the Tariff. As we found above, there are some discrepancies in the argument of the appellant on the issue of commercial understanding of oranges/mandarin oranges, therefore, the submissions on trade parlance are not valid as trade too accepts that there are differences between these two, though they may be used interchangeably. Moreover, when there is no doubt as to the scope of the entries in the Customs Tariff, recourse to trade parlance and common man's understanding is not warranted. We find there too the understanding is not uniform. We find that as per the document prepared by ministry of Agriculture, Government of India, categorically states that *Kinnow / Mandarin fruit is a hybrid of two varieties viz. Citrus nobilis and Citrus deliciosa;* ***it is commonly confused with Oranges****, due to the similarity in their appearances, seasonal availability and nutritional benefits offered by both the fruits (emphasis supplied).* Therefore, we are not inclined to accept the argument of the appellant. Similarly, the argument on the basis of end use cannot be accepted as the end use cannot be a criteria for classifying imported goods. In view of the discussion, we are of the considered opinion that the impugned order does not required to be interfered as far as the merits of the case are concerned. Accordingly, we uphold the classification of Mandarin Orange Juice concentrate under Tariff entry 2009 3900, by the impugned order.

28. further, we find that Hon'ble Supreme Court held in the case of *Commissioner of Customs (Import) vs. Welkin Foods* (*2026)*[49] has listed out the governing principles while applying common parlance test.

> "66. Based on the aforementioned case law, the following governing principles can be culled out with regard to the application of the common or trade parlance test while dealing with classification disputes under taxation laws:

[49] **38 Centax 104 (S.C.)/2026 (395) E.L.T. 273 (S.C.) [06-01-2026]**

a. The common or trade parlance test must be applied restrictively. Its function is limited to ascertaining the common or commercial meaning of a term found within a tariff heading or its defining criterion.

b. The trade or common parlance test can be invoked when dealing with a classification dispute only when the following conditions are satisfied.

i. The Governing statute, including the relevant tariff heading Section Notes, Chapter Notes, or HSN Explanatory Notes, does not provide any explicit definition or clear criteria for determining the meaning and scope of the tariff item in question

ii. The Tariff heading does not include scientific or technical terms, or the words used in the heading are not employed in a specialised, technical Context.

iii. The application of the common parlance test must not contradict or run counter to the overall statutory framework and the contextual manner in which the term was used by the legislature.

Thus, broadly speaking, the common or trade parlance test cannot be invoked where the statute, either explicitly or implicitly, provides definitive guidance. Explicit statutory guidance exists where the legislature provides a specific definition or a clear criterion for a term within the Act itself. Conversely, implicit guidance is found where the terms employed are scientific or technical in nature, or where the statutory context indicates that the words must be construed in a technical sense. It is only in a state of statutory silence, where the legislative intent remains unexpressed, that the tribunals or courts may resort to the common or trade parlance test.

c. In the contemporary HSN-based classification regime, the common or trade parlance test cannot serve as a measure of first resort. It should only be employed after a thorough review of all relevant material confirms the absence of statutory guidance.

d. When interpreting terms in a tariff item by relying on the basis of common or trade parlance, an overly simplified approach should be avoided, and the words should be understood within their legal context. Further, when a party asserts a meaning of a term based

on common or trade parlance, it must present satisfactory evidence to support that claim.

e. When a tariff item is general in nature and does not indicate a particular industry or trade circle, the common parlance understanding of that term is appropriate. However, when a tariff item is specific to a particular industry, the term must be understood as it is used within that specific trade circle.

f. The common or trade parlance test cannot be used to override the clear mandate of the statute. Specifically:

i. The test cannot be applied in a way that results in the reclassification of a good that is clearly identifiable under a particular heading according to the statute, simply because that good is marketed or called by a different name in trade or common parlance.

ii. Conversely, the test cannot be used to challenge the classification of goods under a statutory heading if those goods retain the essential characteristics defined by that heading, even if they have a unique or specialised trade name.

In other words, the character and nature of the product cannot be veiled behind a charade of terminology which is used to market the product or refer to it in common or commercial circles.

g. To establish a separate commercial identity, it is essential to demonstrate that the good has undergone such a substantial transformation that it can no longer be characterized as a mere sub-type or category of a broader class and thus falls outside the ambit of the common or commercial understanding associated with such a class of goods."

29. We find from the above that the common parlance test cannot be a first resort. It cannot be invoked where the statute, either explicitly or implicitly, provides definitive guidance. It can only be resorted to when statute is totally silent and where the legislative intent remains unexpressed.

30. In view of the discussion above, in the present case, the implicit guidance of the statute is available from the classification of fresh citrus fruits under Heading 0805 expressly distinguishing "Oranges" (sub-heading

0805 10) and "Mandarins (including tangerines and satsumas); clementines, wilkings and similar citrus hybrids" (sub-heading 0805 20). This classification reflects a deliberate choice by the framers of the Harmonized System to treat oranges and mandarins as distinct commodities for tariff purposes. Even if it is argued that tariff is not clear as to where all species of oranges fall under *0805 10 00,* it is undeniable that mandarin will not fall under it regardless.

31. We are of the considered opinion that when the Customs Tariff Act, under Heading 2009, creates a specific sub-heading for "Orange juice" and a separate residuary sub-heading for "Juice of any other single citrus fruit," the term "Orange" must be read consistently with the meaning ascribed to it elsewhere in the Act. The application of the common parlance test must not contradict or run counter to the overall statutory framework as held in *Welkin Foods.* It would be impermissible to interpret "Orange juice" under Heading 2009 as encompassing mandarin juice, when the very same Act, classified mandarins separately from oranges. In the present case, if "orange" under Heading 2009 were to be interpreted in its common parlance sense to include mandarins, it would directly contradict the statutory scheme under Heading 0805. The term "orange" must be read consistently across the tariff.

32. We find that Hon'ble Supreme Court in the case of *Akbar BadruddinJiwani v. Collector 1990*[50]*, referred to in Welkin Foods(supra)* declined to interpret "marble" in its common parlance sense because Entry 25.15 of the ITC Schedule separately enumerated marble, travertine, ecaussine, alabaster, and other calcareous stones. The Court held that if the common parlance meaning of "marble" were adopted to include all calcareous stones, it would render the separate enumeration of travertine, ecaussine, alabaster, and other calcareous stones completely otiose and redundant.

33. In view of the discussion, we hold that the mandarinorange concentrate imported by the appellants is correctly classified by the Revenue under Tariff Entry 2009 3900 as juice or concentrate of other Citric Fruits. Thus, we are not inclined to accept the contention of the appellant.

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[50] **E.L.T. 161 (S.C.)**

34. Coming to the issue of invocation of extended period, we find that the appellant was a regular importer. The goods imported by them were being assessed under the tariff item declared by them over the years. The classification adopted by the appellant is very much in the knowledge of the department. When the appellant has been long classifying the goods under a Tariff item, the charge of suppression with intent to evade payment of duty cannot be alleged. The imported goods are invariably cleared after the officers give out of charge in the system. It is likely that at times officers inspected the impugned goods. In all cases, the Bills of Entry are subjected to Post Clearance Audit. Thus, Revenue cannot hide behind the so-called 'self-assessment'. The present demand culminated from an audit and all the details and documents were verified by the audit team and all the material information was in the knowledge of the department; there can be no question of any suppression of facts or intent to evade payment of tax. Admittedly, the issue arose due to an audit objection. Revenue could not show any positive act on the part of the appellant to evade payment of duty. It has been shown by the department it was held in a plethora of cases that when a demand is based on audit objection, there cannot be any allegation of suppression. We find support for these findings on extended period on the decision in **GD Goenka Private Limited**[51]; **Mahanagar Telephone Nigam Ltd. (MTNL) vs. Union of India and Ors.**[52] and **Reliance Industries Ltd.**[53]

35. In view of the above, the appeal is partly allowed in favour of the appellants on limitation and in favour of the Revenue on merits. Demand for normal period is upheld. Penalties and fines however, are set aside.

(Order pronounced in open court on 08.05.2026)

(JUSTICE DILIP GUPTA)
PRESIDENT)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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[51]**[2023-VIL-798-CESTAT DEL-ST New Delhi]**
[52]**[2023-TIOL-407-HC-DEL-ST (SLP filed by the department was dismissed 2024 (388) E.L.T. 141 (S.C.)]**
[53]**[2023 (385) E.L.T. 481 (S.C.)]**