

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

REGIONAL BENCH – COURT No. I

Customs Appeal No. 40755 of 2025

(Arising out of Order-in-Appeal SEAPORT C.Cus.II No. 380/2025 dated 26.03.2025 passed by the Commissioner of Customs (Appeals-II), No. 60, Rajaji Salai, Custom House, Chennai – 600 001)

M/s. Suraj Constructions

...Appellant

1st Floor, No. 91, Fuso House,
Poonamallee High Road,
Chennai – 600 084.

Versus

Commissioner of Customs

...Respondent

Chennai II Commissionerate,
No. 60, Rajaji Salai,
Custom House,
Chennai – 600 001.

APPEARANCE:

For the Appellant : Mr. G. Madan, Advocate
For the Respondent : Ms. O.M. Reena, Authorised Representative

CORAM:

HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER No. 40827 / 2026

DATE OF HEARING : 05.05.2026
DATE OF DECISION : 25.06.2026

Per Mr. VASA SESHAGIRI RAO

The present appeal has been filed by M/s. Suraj Constructions (hereinafter referred to as "the appellant") challenging Order-in-Appeal No. Seaport C. Cus. II No. 380/2025 dated 26.03.2025 (hereinafter referred to as "the impugned order"), whereby the Commissioner (Appeals),

despite accepting classification of the imported Clear Float Glass under CTH 7005 10 90, remanded the matter for verification of the PTA Certificate of Origin on the ground that it reflected CTH 7005 29 90. The imports were covered under Bill of Entry No. 3039985 dated 26.10.2022, in respect of which the appellant had claimed the benefit of Sl. No. 934(I) of Notification No. 46/2011-Cus. dated 01.06.2011.

2. Subsequently, based on an audit objection, the Department took the view that the imported goods were classifiable under CTH 7005 29 90 and not under CTH 7005 10 90, on the ground that they did not possess the absorbent, reflecting or non-reflecting layer contemplated under Chapter Note 2(c) of Chapter 70. Accordingly, proceedings were initiated proposing denial of the benefit of Notification No.46/2011-Cus., recovery of differential duty of Rs.14,50,507/- with interest, confiscation of the goods and imposition of redemption fine and penalty. By Order-in-Original No.103667/2023 dated 20.11.2023, the adjudicating authority confirmed the demand, imposed redemption fine of Rs.12,00,000/- and a penalty of Rs.14,50,507/- under Section 114A. In appeal, the Commissioner (Appeals) accepted the appellant's classification under CTH 7005 10 90 but remanded the matter for examining the legality and

validity of the PTA Certificate of Origin. Aggrieved thereby, the appellant is before this Tribunal.

3.1 The Ld. Advocate Shri G. Madan appearing for the appellant, submitted that the entire proceedings are founded upon an erroneous understanding of Heading 7005 and Chapter Note 2(c) of Chapter 70. It was argued that float glass manufactured through the float process invariably contains a microscopic tin layer on one surface due to contact with molten tin during the manufacture and that such tin layer possesses absorbent and non-reflective characteristics squarely satisfying the requirements of Chapter Note 2(c). In support of this contention, reliance was placed upon multiple reports issued by CSIR-Central Glass and Ceramic Research Institute (CGCRI) dated 04.02.2019, 02.02.2022, 07.07.2022 and 26.04.2023, all of which consistently recorded the presence of a tin layer exhibiting absorbent and non-reflective properties. It was emphasized that the Department has not produced any contrary scientific or expert evidence disputing these findings.

3.2 The Ld. Counsel further relied upon the RTI clarification dated 17.07.2023 issued by CSIR-CGCRI explaining the characteristics of the tin layer and its

relevance for classification under Heading 7005. Reliance was also placed on Final Order Nos. 40431-40435 of 2025 dated 09.04.2025 in the appellant's own case and the decisions of the Tribunal in *Bagrecha Enterprises Ltd. v. Commissioner of Customs (Port), Kolkata, 2023 (13) Centax 321 (Tri.-Cal.)* and *Bagrecha Enterprises Ltd. v. Commissioner of Customs, Chennai, 2024 (24) Centax 245 (Tri.-Mad.)*, wherein identical goods were held classifiable under CTH 7005 10 90 with consequential eligibility to the benefit of Notification No.46/2011-Cus. It was further contended that the tariff classification mentioned in the PTA Certificate of Origin cannot override the classification legally determined under the Customs Tariff Act, 1975 and that, once the goods are held classifiable under CTH 7005 10 90, the benefit of the notification cannot be denied merely because the Certificate of Origin mentions a different tariff heading. According to the learned Counsel, the classification adopted by the appellant is fully supported by the tariff provisions, HSN Explanatory Notes, scientific reports and judicial precedents and cannot be displaced merely because an audit objection entertained a different view.

4. The Ld. Authorized Representative Ms. O.M. Reena for the Revenue, reiterated the findings recorded in the impugned order. The learned Authorized Representative

further submitted that the PTA Certificate of Origin accompanying the import itself mentioned CTH 7005 29 90 and therefore required verification before extending the benefit of the notification and prayed for dismissal of the appeal.

5. Upon consideration of the rival submissions, the records of the case, the Customs Tariff Act, 1975, Notification No.46/2011-Cus. dated 01.06.2011, the scientific reports placed on record and the judicial Precedents placed before us, the following questions arise for determination: -

- i. Whether the tariff classification mentioned in the PTA Certificate of Origin can override or affect the classification of the imported goods determined under the Customs Tariff Act, 1975 and the appellant's eligibility to the benefit of Notification No.46/2011-Cus.?
- ii. Whether the differential duty demand of Rs.14,50,507/- confiscation under Section 111(m), redemption fine of Rs.12,00,000/-, penalty under Section 114A and consequential interest are sustainable?

6. We now proceed to examine the issues framed for determination sequentially.

ISSUE NO. (i) – Effect of the tariff classification mentioned in the PTA Certificate of Origin on classification and exemption eligibility.

7. The controversy in the present appeal arises in a narrow compass. The original proceedings were initiated on the basis of an audit objection which proceeded on the assumption that Clear Float Glass imported by the appellant was correctly classifiable under CTH 7005 29 90 and not under CTH 7005 10 90. The entire demand of differential duty, confiscation and penalty was founded upon that assumption. However, the Commissioner (Appeals), after examining the tariff entries, Chapter Note 2(c), the scientific material placed on record and the judicial precedents cited by the appellant, recorded a finding accepting the appellant's classification under CTH 7005 10 90. The only reason for not granting complete relief was the observation that the PTA Certificate of Origin accompanying the import reflected CTH 7005 29 90 and therefore required examination by the adjudicating authority.

8. In order to appreciate the correctness of the said approach, it becomes necessary to first examine the statutory scheme governing classification under Chapter 70. Chapter Note 2(c) to Chapter 70 specifically provides that for the purposes of Headings 7003, 7004 and 7005, the expression "absorbent, reflecting or non-reflecting layer"

means a microscopically thin coating of metal or of a chemical compound, such as metal oxide, which absorbs light, improves reflecting qualities or prevents reflection while retaining transparency or translucency. The legislature has consciously employed the expression "microscopically thin coating of metal". The note nowhere stipulates that the coating must be intentionally applied in a separate manufacturing operation. On the contrary, the emphasis is upon the existence and characteristics of the coating rather than the method by which it comes into existence. Chapter Note 2(c) is therefore of central importance to the present dispute.

9. The appellant's case is founded on multiple CGCRI reports dated 04.02.2019, 02.02.2022, 07.07.2022 and 26.04.2023, together with the RTI clarification dated 17.07.2023, which consistently record the presence of a microscopic tin layer possessing absorbent and non-reflective characteristics. The Department has neither subjected the goods to independent scientific examination nor produced any contrary expert evidence. In the absence of rebuttal technical material, the findings recorded by CGCRI deserve due evidentiary weight.

10. The appellant's contention also finds substantial support from *Bagrecha Enterprises Ltd.*, 2023 (13) Centax 321 and 2024 (24) Centax 245, wherein identical Clear Float Glass was held classifiable under CTH 7005 10 90. The consistent judicial view emerging from these decisions is that the microscopic tin layer generated during the float glass manufacturing process satisfies Chapter Note 2(c) and consequently merits classification under CTH 7005 10 90.

11. The controversy regarding classification is, in our considered view, no longer res integra. In the appellant's own case, this Tribunal in *M/s. Suraj Constructions v. Commissioner of Customs, Chennai*, Final Order Nos.40431-40435/2025 dated 09.04.2025, reported in 2025 (4) TMI 1695 (CESTAT Chennai), after an elaborate examination of Heading 7005, Chapter Note 2(c), the CGCRI test reports and the earlier decisions rendered in *Bagrecha Enterprises Ltd.(Supra)*, *Float Glass Centre* 2024 (84) G.S.T.L. 297 (A.A.R. - GST - T.N.), *Enviro Safety Glass* (2024) 25 Centax 115 (Tri.-Mad) and *Rider Glass Industries*, (2024) 25 Centax 384 (Tri.-Mad) categorically held that Clear Float Glass containing a microscopic absorbent tin layer is correctly classifiable under CTH 7005 10 90 and consequently eligible for the benefit of Sl. No.934 of Notification No.46/2011-Cus. The Tribunal specifically recorded that the ratio laid down in

the earlier decisions squarely applied and held that the imported Clear Float Glass was more appropriately classifiable under CTH 7005 10 90 and entitled to the exemption benefit under Notification No.46/2011-Cus.

12. Significantly, the said decision arose in the appellant's own case involving identical goods imported from Malaysia and the very same tariff entries and exemption notification. Judicial discipline and the principle of certainty in tax administration require that identical goods imported by the same assessee be accorded identical treatment unless there exists a contrary decision of a superior forum. No such contrary decision has been brought to our notice. Mere pendency of proceedings before a higher forum does not dilute the binding nature of a coordinate Bench decision. The law on this aspect stands settled by the Hon'ble Supreme Court in *Union of India v. Kamlakshi Finance Corporation Ltd., 1991 (55) E.L.T. 433 (S.C.)*, wherein it was emphatically held that orders of appellate authorities are binding upon subordinate authorities and judicial discipline requires their faithful implementation.

13. We also find considerable support for the appellant's case from the ruling rendered by the Customs Authority for Advance Rulings, Mumbai, in Re: Suraj

Constructions, Ruling No. CAAR/MUM/ARC/10/2022 dated 10.05.2022, reported in 2022 (5) TMI 1597 (CAAR-Mumbai). The Authority examined the very same product, namely Clear Float Glass possessing an absorbent layer on one side, and after analysing Chapter Note 2(c), Heading 7005 and Notification No.46/2011-Cus., categorically ruled that such goods are classifiable under CTH 7005 10 90. The Authority further held that goods so classified would be eligible for the benefit of Sl. No.934 of Notification No.46/2011-Cus., subject to satisfaction of the Rules of Origin requirements.

14. The Advance Ruling directly addresses the controversy in the present appeal and holds that a discrepancy in the HS Code mentioned in the Certificate of Origin cannot, by itself, defeat the preferential benefit where the goods are otherwise correctly classifiable under Indian customs law and satisfy the origin requirements. The basis of the remand therefore stands answered by the said ruling.

15. We also find that although the Commissioner (Appeals) accepted the appellant's classification under CTH 7005 10 90, he remanded the matter solely because the PTA Certificate of Origin reflected CTH 7005 29 90. Such an approach is not legally justified. More importantly, the Commissioner (Appeals) failed to consider the Advance

Ruling in the appellant's own case, reported in 2022 (5) TMI 1597, wherein the precise issue arising from the mention of CTH 7005 29 90 in the Certificate of Origin was examined and it was held that such discrepancy would not disentitle the importer from claiming the benefit of Notification No.46/2011-Cus. once the goods are otherwise classifiable under CTH 7005 10 90 and satisfy the origin requirements.

16. Further, the appellant has relied upon the decision rendered by this Tribunal in the case of *Float Glass Centre Vs. Commissioner of Customs [F.O.Nos. 40876-40908/2024 dated 18.07.2024]* which has held as follows while addressing the issue involved. It is expedient to extract the relevant paragraphs to understand the issue involved in depth: -

"14.1 In respect of the second set of appeals where the appellant has challenged the assessments made in the Bills of Entry for the period from 27.01.2022 to 19.12.2022, the Lower Appellate Authority has denied the benefit of exemption under Notification No. 46/2011-Cus dated 01.06.2011 as the Country-of-Origin Certificates mentioned the HSN Code as 7005 2990 for the Clear Float Glass imported. Many contentions raised by the appellant have not been discussed at all. No reasons were advanced as to why the Country-of-Origin Certificates produced are not valid. We are of considered view that the imported goods are required to be classified under the Indian Customs Law. Classification of imported goods under the first schedule of Customs Tariff Act, 1975 is governed by the General Rules of Interpretation of Import Tariff. As per Rule 1 of GRI, Classification of goods shall be determined according to the terms of the headings and any relative Section or Chapter Notes. If such headings or notes do not otherwise require then the classification is to be determined in accordance with Rule 2 to 6 of said Rules. Rule 6 of G.R.I. stipulates that the classification of goods in

the sub-headings of a heading shall be determined according to the terms of those sub/headings and any related sub-heading Notes and, *mutatis mutandis*, to the above rules, on the understanding that only sub-headings at the same level are comparable. For the purposes of this rule the relative Section and Chapter Notes also apply, unless the context otherwise requires. It is important to note that the benefit of Country-of-Origin Certificate cannot be legally denied, if all the conditions in terms of Customs Tariff (Determination of Origin of Goods Under the Preferential Trade Agreement Between the Government of Member States of ASEAN and Republic of India) Rules, 2009 are satisfied. We also note that exporting country can mention on the Country-of-Origin Certificate the HSN Code of the importing country thus indicating that the HSN Code of the commodity in exporting country cannot be the sole basis for its classification under the Indian Customs Tarriff Act, 1975. During the hearing before the Tribunal, both the Ld. Counsels have informed that there are two important manufactures of Clear Float Glass in Malaysia viz. M/s. Kibing Group (M) Sdn. Bhd. (KGM) and M/s. Xinyi Energy Smart (Malaysia) Sd. Bhd. (XES).

14.2 The Ld. Counsels have informed that in respect of the first company belonging to Kibing Group (KGM), the Country-of-Origin Certificates mentioned the HSN Code of Clear Float Glass as 7005 1090, as Malaysian Customs have allowed its application to mention HSN Code of Clear Float Glass as 7005 1090. It appears, the application of XES is reportedly pending for effecting a similar change on the basis of the decision of Advance Ruling Authority in the cases of Chandrakala Associates dated 24.09.2021 and Suraj Constructions dated 10.05.2022. As such, we hold that classification of any imported goods has to be determined in terms of the provisions of Customs Tariff Act, 1975 including Section Notes and Chapter Notes read with the General Rules for Interpretation of Tariff (GIR). In the case of Sharp India Ltd. Vs. Commissioner of Customs (Imports), Nhava Sheva, Raigad [2019 (366) ELT 153 (Tri.-Bom.)], the Tribunal Bombay has held that the classification of imported goods to be determined in accordance with Indian Customs Tariff and not solely on the basis of code mentioned in Certificate-of-Origin. In the context of import of RBD Palmolein mixture under Indo-Sri Lanka Free Trade Agreement (ISFTA), in the case of Sheel Chand Agrolls P. Ltd. Vs. Commissioner of Customs (Preventive), New Delhi [2016 (331) ELT 251 (Tri.-Del.)], the Tribunal Delhi has held that the Country of Origin requirements were satisfied even if the goods were classified differently in the Country of Origin Certificate issued.

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14.3 As such, we hold that denial of the exemption benefit of Notification No. 46/2011-Cus dated 01.06.2011 is not justified though the Country-of-Origin Certificate mentioning the HSN Code as 70052990. The impugned Order-in-Original No. 101612/2023 dated 10.04.2023 of the Commissioner of Customs, Chennai II and Orders-in-Appeal Nos. 206 to 220/2023 dated 17.03.2023, 546-557/2023 dated 28.08.2023 and 715-733/2023 dated 27.10.2023 of the Commissioner of Customs (Appeals), Seaport Chennai cannot be sustained and so ordered to be set aside."

17. We therefore hold that, having correctly accepted the classification of the imported goods under CTH 7005 10 90, the Commissioner (Appeals) was not justified in withholding the consequential benefit of Notification No.46/2011-Cus. merely because the Certificate of Origin mentioned CTH 7005 29 90. The discrepancy in tariff description appearing in the Certificate of Origin cannot override the correct tariff classification otherwise established on the basis of statutory provisions, scientific evidence and binding precedents.

18. The principle emerging from the statutory provisions, scientific evidence and judicial precedents is clear. Classification under Heading 7005 depends upon the existence of the absorbent, reflecting or non-reflecting layer contemplated by Chapter Note 2(c). Once such layer is established, classification under CTH 7005 10 90 follows. The Certificate of Origin serves only to establish originating

status and cannot override classification legally determined under the Customs Tariff Act. Since the Department has neither disputed the originating status of the goods nor alleged that the Certificate of Origin is invalid, the mere mention of CTH 7005 29 90 therein, the benefit of Notification No.46/2011-Cus cannot be denied.

ISSUE NO. (ii) – Whether the differential duty demand, confiscation, redemption fine, penalty and interest are sustainable?

19. Having held under Issue No. (i) that the imported goods are correctly classifiable under CTH 7005 10 90 and that the mention of CTH 7005 29 90 in the PTA Certificate of Origin cannot override the classification legally determinable under the Customs Tariff Act, 1975, we now proceed to examine the sustainability of the consequential demand, confiscation, redemption fine, penalty and interest. The entire demand of differential duty amounting to Rs.14,50,507/- is founded upon the assumption that the imported goods are classifiable under CTH 7005 29 90 and consequently not eligible for the concessional rate available under Sl. No.934(I) of Notification No.46/2011-Cus. Once that premise fails, the very foundation of the demand gets crumbled.

20. We find that the show cause notice did not allege any misdescription of the imported goods. The goods were consistently declared and assessed as "Clear Float Glass". The dispute throughout has been confined to the proper interpretation of Heading 7005 and Chapter Note 2(c). The proceedings themselves originated from an CERA audit objection entertaining a different view regarding classification. It is therefore evident that the dispute is essentially one of tariff interpretation and not one involving suppression, misdeclaration or fraudulent conduct on the part of the appellant.

21. The Hon'ble Supreme Court in *Northern Plastics Ltd. v. Collector of Customs*, 1998 (101) E.L.T. 549 (S.C.), held that where the dispute relates to classification and the importer has fully disclosed all relevant particulars, confiscation and penal consequences cannot automatically follow merely because the Department subsequently adopts a different classification. The Court emphasized that confiscation under the Customs Act cannot be sustained in the absence of deliberate misdeclaration or conscious violation of the statutory provisions. The ratio of the said decision squarely applies to the present case, where the imported goods were correctly described and the controversy centres only on the tariff entry applicable thereto.

22. Section 111(m) of the Customs Act, 1962 contemplates confiscation where goods are imported by reason of misdeclaration of value, description or other material particulars. In the present case, neither the description nor the nature of the goods has been disputed. The Department's objection is confined to classification. Once the classification claimed by the appellant stands accepted, the very basis for invoking Section 111(m) disappears. Consequently, the confiscation ordered by the adjudicating authority cannot be sustained. The redemption fine of Rs.12,00,000/- imposed in lieu of confiscation is entirely consequential in nature. It is settled law that where confiscation itself fails, redemption fine cannot survive independently. Since the foundation for confiscation under Section 111(m) is absent, the redemption fine is also liable to be set aside.

23. We further find that the penalty of Rs.14,50,507/- imposed under Section 114A is equally unsustainable. Penalty under Section 114A presupposes a legally sustainable duty demand arising by reason of collusion, wilful misstatement, suppression of facts or deliberate contravention of statutory provisions with intent to evade duty. The present proceedings arose out of an audit

objection involving interpretation of Heading 7005. The appellant disclosed the classification adopted by it in the Bill of Entry itself and claimed exemption openly on that basis. The issue was supported by scientific reports issued by CGCRI, the RTI clarification, the ruling of the Customs Authority for Advance Rulings and a series of judicial precedents. Such circumstances are wholly inconsistent with any allegation of deliberate suppression or wilful misstatement.

24. In *Akbar Badruddin Jiwani v. Collector of Customs*, 1990 (47) E.L.T. 161 (S.C.), the Hon'ble Supreme Court observed that where goods are imported under a bona fide claim based on a plausible interpretation of the law and supported by relevant material, penal consequences are not warranted merely because the Department entertains a different view. Similarly, in *Hindustan Steel Ltd. v. State of Orissa*, 1978 (2) E.L.T. (J159) (S.C.), it was held that penalty is not to be imposed merely because it is lawful to do so and that penal action requires conscious disregard of legal obligations. The principles laid down in the aforesaid decisions apply with full force to the facts of the present case.

25. We also note that the appellant's classification stands supported by the ruling of the Customs Authority for Advance Rulings in the appellant's own case as well as by the subsequent decision of this Tribunal in *M/s. Suraj Constructions v. Commissioner of Customs, Chennai, 2025 (4) TMI 1695 (CESTAT Chennai)*. The existence of such authoritative support itself demonstrates that the appellant's claim was bona fide and founded upon a reasonable interpretation of the tariff. This circumstance completely negates any allegation of suppression, fraud or intent to evade duty.

26. The Ld. Counsel for the appellant also relied upon the decisions in *Bagrecha Enterprises Ltd. v. Commissioner of Customs (Port), Kolkata, 2023 (13) Centax 321 (Tri.-Cal.)* and *Bagrecha Enterprises Ltd. v. Commissioner of Customs, Chennai, 2024 (24) Centax 245 (Tri.-Mad.)*, wherein identical goods were held classifiable under CTH 7005 10 90 with entitlement to Notification No.46/2011-Cus. Once the legal position regarding classification stands settled in favour of the appellant, the consequential demand and penalties cannot be permitted to survive.

27. Interest demanded under the Customs Act is merely accessory and incidental to the principal duty demand. Once the duty demand itself fails, the liability towards interest necessarily falls. It is well settled that interest cannot survive independently in the absence of a legally sustainable duty liability.

28. Accordingly, we hold that the differential duty demand of Rs.14,50,507/-, confiscation under Section 111(m), redemption fine of Rs.12,00,000/-, penalty of Rs.14,50,507/- under Section 114A and consequential interest are unsustainable and liable to be set aside.

29. In view of the foregoing findings, we hold that the imported Clear Float Glass is correctly classifiable under CTH 7005 10 90 and eligible for the benefit of Sl. No.934(I) of Notification No. 46/2011-Cus. The tariff heading mentioned in the PTA Certificate of Origin cannot override the classification legally determinable under the Customs Tariff Act, 1975 and does not constitute a valid ground for denying the notification benefit. Consequently, the differential duty demand of Rs.14,50,507/-, confiscation under Section 111(m), redemption fine of Rs.12,00,000/-, penalty under Section 114A and consequential interest are

set aside. The appeal is allowed with consequential relief, if any, in accordance with the law.

(Order pronounced in open court on 25.06.2026)

Sd/-
(AJAYAN T.V.)
MEMBER (JUDICIAL)

MK

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)