

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

REGIONAL BENCH – COURT No. I

Customs Appeal No. 41353 of 2025

(Arising out of Order-in-Appeal Seaport.C.Cus.II No. 1079/2025 dated 16.10.2025 passed by the Commissioner of Customs (Appeals II), No. 60, Rajaji Salai, Custom House, Chennai – 600 001)

M/s. Supertron Electronics Pvt. Limited

...Appellant

Supertron House, 2 Cooper Lane,
Kolkata – 700 001.

Versus

Commissioner of Customs

...Respondent

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

APPEARANCE:

For the Appellant : Mr. N. Viswanathan, Advocate

For the Respondent : Mr. Vineet Goyal, Authorised Representative

CORAM:

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

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

FINAL ORDER No. 40703 / 2026

DATE OF HEARING : 07.04.2026

DATE OF DECISION : 02.06.2026

Per Mr. VASA SESHAGIRI RAO

The present appeal arises out of rejection of refund claims filed by M/s Supertron Electronics Pvt. Ltd., Kolkata, (hereinafter referred to as the appellant), under Notification No. 102/2007-Cus dated 14.09.2007, which provides for refund of Special Additional Duty (SAD) paid at the time of import, subject to fulfillment of prescribed

conditions. The appellant is engaged in the business of trading in computer monitors and parts and had imported goods through a Special Economic Zone unit, namely M/s Dell International Services India Pvt. Ltd., SIPCOT SEZ, Sriperumbudur, on payment of applicable customs duties including SAD. Upon subsequent sale of the imported goods in the domestic market on payment of VAT/CST, the appellant became eligible to claim refund of SAD in terms of the said notification. The refund claims so filed came to be rejected by the adjudicating authority and such rejection was upheld vide Order-in-Appeal No. C3/750/R/2013 dated 20.03.2014 passed by the Commissioner of Customs (Appeals), Chennai, which is the impugned order in the present proceedings.

1.2 The appellant filed twelve refund claims for the period 2009–2010 amounting to Rs.2,01,60,345/- along with supporting documents such as Bills of Entry, sales invoices, proof of VAT payment, and certificates as required under the notification. The claims were initially processed but came to be rejected by the original authority primarily on the ground that the authority lacked jurisdiction to sanction the refund. This issue of jurisdiction ultimately came to be decided by this Tribunal in Final Order No. 42418/2021 dated 22.10.2021 directing reconsideration of the claims on merits.

1.3 Subsequently, the proceedings were revived; however, during the interregnum, it is evident from the record that original documents earlier submitted by the appellant were not traceable with the department, necessitating reconstruction of the claims based on available copies and secondary evidence. Despite this, the claims were again rejected on grounds including non-production of original documents, alleged non-compliance with conditions of Notification No. 102/2007, absence of endorsement on invoices, and reiteration of jurisdictional issues. The Commissioner (Appeals) upheld such rejection, leading to the present appeal before this Tribunal.

2. The Ld. Advocate Shri N. Viswanathan appeared on behalf of the Appellant and advanced detailed submissions in support of the Appeal and the Ld. Authorized Representative Shri Vineet Goyal, appeared for the Revenue.

3. The Ld. Advocate Shri Viswanathan for the Appellants, made detailed submissions which are summarized as follows: -

3.1 The appellant submits that the rejection of refund claims is wholly unsustainable both on facts and in law. It is contended that the issue of jurisdiction, which

formed the basis of the initial rejection, stood conclusively settled by directions of the Tribunal relying on the decision of Hon'ble High Court, Gujarat and therefore the authorities below erred in resurrecting the same issue indirectly while adjudicating the claims. The appellant further submits that all substantive conditions under Notification No. 102/2007 were duly fulfilled, inasmuch as the goods were imported on payment of SAD, subsequently sold on payment of VAT/CST, and no credit of such duty was availed or passed on.

3.2 It was argued that the insistence on production of original documents is wholly arbitrary, particularly when the record clearly establishes that such documents were earlier submitted and acknowledged by the department but were subsequently misplaced. The appellant reconstructed the claims by submitting copies of Bills of Entry, invoices, VAT payment proof, and Chartered Accountant certificates certifying non-availment of credit and correlation of goods.

3.3 The appellant relied on a catena of judicial pronouncements, to contend that procedural infractions cannot defeat substantive entitlement, and that refund claims under Notification No. 102/2007 should be granted upon substantial compliance. It is further submitted that endorsement requirements on invoices and strict document

format are procedural in nature and cannot be elevated to mandatory conditions.

4.1 *Per contra*, the Ld. Authorized Representative Shri Vineet Goyal for the Revenue reiterated the findings of the lower authorities and submitted that the conditions prescribed under Notification No. 102/2007 are mandatory and must be strictly complied with. It was contended that the appellant failed to produce original documents such as Bills of Entry and TR-6 challans and did not establish proper correlation between imported goods and goods sold. It is further submitted that the absence of endorsement on invoices to the effect that no credit of SAD has been passed on is fatal to the claim.

4.2 The Revenue also contended that refund being in the nature of exemption must be strictly construed and that the burden lies on the claimant to establish compliance with all conditions. Reliance was placed on decisions where refund claims were denied for non-production of primary documents and non-fulfillment of procedural requirements.

5. Upon consideration of the rival submissions made by the appellants and the Revenue and on perusal of the records, the core question that arises for determination

is whether rejection of the refund claims under Notification No.102/2007-Cus. on grounds of jurisdiction, non-production of original documents and alleged procedural non-compliance is sustainable in law despite substantial compliance by the appellant, and whether the appellant is consequently entitled to refund together with applicable interest?

6. We now proceed to examine the above issue.

6.1 At the outset, the issue of jurisdiction, which formed the basis of the initial rejection by the department, stands conclusively settled by this Tribunal in Final Order No. 42418/2021 dated 22.10.2021 passed in the appellant's own case, wherein, following the decision of the Hon'ble Gujarat High Court in Devharsh Infotech Private Limited vs. Union of India and Board Circular No. 11/2017-Cus dated 31.03.2017, it was held that jurisdiction vested with Commissioner of Customs, Chennai-VII Commissionerate. The Tribunal accordingly set aside the earlier rejection and remanded the matter with directions to decide the refund claims on merits within three months after granting an opportunity of hearing to the appellant. Once such directions were issued, the adjudicating authority was bound to confine itself to examination of eligibility under Notification No. 102/2007-Cus, and the continued reliance by the department on

jurisdictional or technical objections thereafter cannot be sustained in law.

6.2 The next objection relates to non-production of original documents. The records reveal that the appellant had initially filed the refund claims along with original documents, which were duly acknowledged by the department. The subsequent loss or non-traceability of these documents within the department necessitated reconstruction of the claims through secondary evidence. In such circumstances, refund cannot be denied merely on account of absence of originals, particularly when substantive compliance stands established.

Filing of Refund Claims and Supporting Documents

6.3 A careful examination of the records clearly establishes that the appellant had filed twelve SAD refund claims aggregating to Rs. 2,01,60,345/- during the period 2009–2010 before the jurisdictional Customs authorities along with original Bills of Entry, TR-6 challans, supplier invoices, sales invoices, VAT challans, Chartered Accountant certificates containing correlation statements, working sheets, and self-declarations as required under Notification No. 102/2007-Cus. The acknowledgment seals, inward diary numbers, file references, and receipt endorsements

appearing on the applications conclusively demonstrate that the claims and supporting documents were duly received and taken on record by the department. The records further show that after remand by this Tribunal in Final Order No. 42418/2021 dated 22.10.2021 and consequent reorganization of Commissionerates, the original files became untraceable within the department despite repeated correspondence between the Refunds Section and Air Cargo authorities. In such circumstances, the appellant reconstructed the claims on the basis of available copies, acknowledgements, scanned invoices, VAT records, indemnity bonds, and Chartered Accountant certificates. The department therefore cannot reject the claims on the ground of non-production of original documents when the records themselves establish that the originals had earlier been submitted and acknowledged by the department.

6.4 The central issue, however, concerns compliance with conditions stipulated in paragraph 2 of Notification No. 102/2007. The objections raised in the impugned order substantially relate to non-availability of certain original documents, invoice correlation issues and absence of endorsement in some sale invoices regarding non-admissibility of credit. However, once substantial compliance with the substantive requirements of Conditions 2(a) and

2(e)(ii) regarding payment of SAD at the time of import and Conditions 2(b) and 2(e)(i) regarding subsequent sale on payment of VAT/CST and non-passing of SAD credit stands established through statutory certificates, reconciliation statements and contemporaneous records, the refund claims cannot be rejected merely on procedural or document-format related objections.

6.5 We also note that the Specified Officer of the SEZ, vide letter dated 30.08.2024 issued in response to the departmental query, specifically confirmed that the duties payable including SAD had been discharged in respect of the clearances/supplies made during the relevant period and that the SEZ unit maintained records relating to DD numbers, TR-6 challans and duty payments. The said verification by the jurisdictional SEZ authorities materially supports the appellant's contention regarding fulfillment of the substantive requirements under Conditions 2(a) and 2(e)(ii) of Notification No.102/2007-Cus.

6.6 The appellant, in support of the above contentions, specifically relied upon the decision of the Larger Bench in *Chowgule & Co. Pvt. Ltd. v. Commissioner of Customs*, 2014 (306) E.L.T. 326 (Tri.-LB), wherein in Para 5.4 it was held that: -

"5.4.....A trader-importer, who paid SAD on the imported .good and who discharged VAT/ST liability on subsequent sale, and who issued commercial invoices without indicating any details of the duty paid, would be entitled to the benefit of exemption under Notification 102/2007-Cus., notwithstanding the fact that he made no endorsement that "credit of duty is not admissible" on the commercial invoices, subject to the satisfaction of the other conditions stipulated therein".....

The ratio flowing from the said Larger Bench decision is that the requirement under Conditions 2(a), 2(b) and 2(d) of Notification No.102/2007-Cus. stands substantially satisfied once it is established that the importer had not passed on SAD credit and that the goods had suffered VAT/CST on subsequent sale. In the present case, the appellant has furnished Chartered Accountant/statutory auditor certificates specifically certifying that no credit of SAD had been availed or passed on to buyers and the department has not produced any evidence to rebut the said certification or establish availment of double benefit by the purchasers. We further note that the appellant had also furnished indemnity bonds during the course of processing of the refund claims undertaking to safeguard the revenue in the event of any future discrepancy regarding the documents or refund entitlement. In such circumstances, mere absence or deficiency of endorsement in certain invoices cannot by itself lead to denial of the substantive refund benefit.

6.7 In the present case, the appellant has furnished copies of Bills of Entry, VAT records, and certification

establishing compliance with conditions 2(a), 2 (b), 2(d) and 2(e) of Notification 102/2007 -Cus .

6.8 The principal issue then is whether the conditions of Notification No. 102/2007-Cus have been complied with. The objection of the department is largely based on absence of endorsement on invoices, non-production of original TR-6 challans, and alleged lack of correlation. These objections must be tested in light of judicial precedents cited by the appellant.

- i. The Larger Bench decision in *Chowgule & Company Pvt. Ltd. vs. Commissioner of Customs & Central Excise* reported in 2014 (306) E.L.T. 326 (Tri.-LB) Mumbai clearly holds that the condition of endorsement on invoices is not mandatory and that refund cannot be denied when substantive conditions are satisfied. The Tribunal in that case observed that SAD is levied to counterbalance VAT and once VAT is paid, refund must follow, subject to safeguards against unjust enrichment.
- ii. Similarly, in *Kajaria Ceramics Ltd. vs. Commissioner of Customs, Bangalore* reported in 2014 (314) E.L.T. 163 (Tri.-Bang.), it was held that The tribunal held that Special Additional Duty (SAD) refund cannot be rejected solely on the grounds of procedural lapses

(such as non-endorsement on invoices) when evidence of VAT payment is available.

- iii. The appellant has also relied upon decision of the Tribunal in the case of *Commissioner vs. Progressive Alloys Pvt. Ltd.* reported in 2017 (358) E.L.T. 699 (Tri.-All.) wherein in Para 4 of the Order it was held that "Filing of original bill of Entry and /or TR-6 Challan is not a mandatory document for the processing of refund under Notification 102/2007 -Cus.

A careful reading of these judgments shows that refund was denied in those cases due to complete absence of primary documents such as Bills of Entry or failure to establish VAT payment. These decisions, therefore, are distinguishable on facts and cannot be applied to the present case where the appellant has furnished copies, reconciliation, and Chartered Accountant certificates establishing payment of VAT and non-avilment of credit.

6.9 The reliance placed by the Revenue on the decision of the Hon'ble Supreme Court in *Collector of Central Excise v. Alnoori Tobacco Products, 2004 (170) E.L.T. 135 (S.C.)*, is misplaced and distinguishable on facts. In the said case, the Hon'ble Supreme Court emphasized that judgments must be applied in the context of the facts of each case and

not read as statutes. In the present case, the appellant has established compliance with the substantive requirements of Notification No.102/2007-Cus., namely payment of SAD at the time of import, subsequent sale of goods on payment of VAT and non-availment/passing on of SAD credit. The deficiencies pointed out by the department relate only to procedural aspects such as endorsement in invoices and non-availability of certain original documents, some of which arose due to loss of records by the department itself. Therefore, the present case is one of substantial compliance and the ratio of Alnoori Tobacco Products cannot be invoked to deny the refund claim.

6.10 Turning to the CBEC Circulars, the appellant has relied upon Circular No. 6/2008-Cus dated 28.04.2008 and Circular No. 16/2008-Cus dated 13.10.2008, which clarify the procedure for SAD refund and emphasize that the purpose of the notification is to avoid double taxation. These Circulars do not mandate rigid compliance with procedural conditions but instead guide the officers to ensure that refund is granted where VAT has been paid and no credit is availed. Further, Circular No. 18/2010-Cus dated 8.10.2010 reiterates that refund claims must be processed expeditiously and should not be rejected on minor procedural grounds. The Circular reflects the consistent policy of the

Board that SAD refund is a beneficial scheme and should be implemented in a facilitative manner.

6.11 We find that the objection raised by the department regarding the so-called “tax invoice-cum-challan” also does not advance the Revenue’s case. From the records, it is evident that the appellant had effected clearances through the SEZ unit and the documents issued by the SEZ entity were in the nature of composite commercial documents evidencing both clearance and discharge of applicable levies. In the context of SEZ transactions, such tax invoice-cum-challan documents are recognized commercial instruments which reflect the movement of goods from the SEZ to the Domestic Tariff Area and the corresponding tax incidence. The essence of the requirement under Notification No. 102/2007-Cus is not the nomenclature or format of the document, but whether the imported goods have subsequently suffered VAT/CST and whether the incidence of SAD has not been passed on. The appellant has produced these documents along with VAT returns and sales records establishing payment of VAT. In the absence of any dispute regarding the actual sale of goods or payment of VAT, the rejection of such documents merely on the ground that they are styled as “invoice-cum-challan” instead of a conventional invoice is clearly hyper-

technical and contrary to the settled principle that procedural formats cannot defeat substantive entitlement.

6.12 We further note that the report dated 30.08.2024 submitted by the Specified Officer, SIPCOT Electronic Hi-Tech SEZ, to the Assistant Commissioner, Custom House, Chennai, carries considerable evidentiary value, the Specified Officer being a statutory authority entrusted under the SEZ framework with supervision and verification of transactions within the SEZ including movement of goods to the Domestic Tariff Area. The said report, issued in response to departmental verification, independently confirms the clearance of goods from the SEZ to the Domestic Tariff Area, maintenance of statutory records by the SEZ unit and existence of corresponding documentation evidencing such movement, thereby directly addressing the department's objections regarding correlation and authenticity of records. The adjudicating authority has neither pointed out any discrepancy in the contents of the report nor produced any contrary evidence to rebut the findings recorded therein. In such circumstances, the report constitutes a material and reliable piece of evidence substantiating the appellant's claim regarding movement of goods, correlation of transactions and compliance with the substantive requirements of Notification No.102/2007-Cus.,

and the failure to accord due weight to the same renders the impugned order unsustainable.

6.13 It is also pertinent that Notification No. 102/2007 itself does not prescribe endorsement as a condition precedent but only as a procedural safeguard. Where the appellant has furnished declarations, Chartered Accountant certificates, and VAT payment proof, the absence of physical endorsement cannot be treated as fatal. On an overall appreciation of facts, it is clear that the appellant has established payment of SAD at the time of import, subsequent sale of goods on payment of VAT, furnishing of documentary evidence including reconstructed records, and non-avilment of credit. The deficiencies pointed out by the department are either procedural or attributable to departmental lapses such as loss of records. The rejection of refund on such grounds is contrary to the consistent line of judicial decisions discussed above and binding CBEC Circulars.

6.14 We find that considerable uncertainty prevailed at the relevant time regarding the proper authority competent to process refund claims arising from SEZ transactions. However, the position subsequently stood clarified by CBEC Circular No.11/2017-Cus. dated

31.03.2017 issued pursuant to insertion of Rule 47(5) in the SEZ Rules, 2006, wherein it was specifically clarified that functions such as refund, adjudication, review and appeal are to be handled by the jurisdictional Customs/Central Excise authorities in accordance with the Customs Act and allied laws. The Tribunal in the appellant's own case, vide Final Order No.42111/2021 dated 22.10.2021, also took note of the said Circular and remanded the matter for fresh decision recognizing the jurisdiction of the Customs Commissionerate.

6.15 We further notice that the refund claims actually entertained and processed in the impugned proceedings aggregated only to Rs.1,85,93,345/-. Though the appellant sought to refer to a larger figure of Rs. Rs. 2,01,60,345/- by including an additional claim of Rs.15,66,989/-, the records reveal that no supporting documents were filed in respect of the said claim and consequently the same was not taken up for adjudication. Accordingly, any entitlement of the appellant can extend only to Rs.1,85,93,345/- which alone formed the subject matter of the impugned proceedings.

6.16 Though the grounds of appeal did not specifically contain a prayer for interest, Learned Counsel for the appellant, during arguments and in the written submissions, sought refund together with applicable statutory interest. We

find considerable merit in the said submission. CBEC Circular No.11/2017-Cus. itself clarifies that refund proceedings relating to SEZ matters are governed by the provisions of the Customs Act, 1962 and are to be processed by the jurisdictional Customs/Central Excise authorities in accordance with the statutory procedure prescribed thereunder.

6.17 The Hon'ble Gujarat High Court in *Devharsh Infotech Private Limited v. Union of India* reported in 2021 (2) TMI 567 (Guj.) specifically took note of the amendment dated 05.08.2016 to Rule 47(5) of the SEZ Rules, CBEC Circular No.11/2017-Cus. dated 31.03.2017 and the earlier CESTAT order dated 16.08.2016 remanding similar refund matters to the jurisdictional Customs authorities for fresh adjudication on merits. The Hon'ble High Court observed that after the amendment and the Circular, there remained "no semblance of doubt" regarding the jurisdiction of Customs authorities to adjudicate such refund claims and further held that once the refund claim is found admissible, the same must be paid together with applicable interest. The Hon'ble High Court also observed that the assessee cannot be made to suffer on account of administrative uncertainty and delay amongst departmental authorities.

6.18 In the present case also, the refund claims came to be rejected principally on account of jurisdictional uncertainty which itself subsequently stood clarified by the amendment to Rule 47(5), CBEC Circular No.11/2017-Cus. and the aforesaid judicial pronouncement. Further, Section 27A of the Customs Act specifically provides for payment of interest where refund is not sanctioned within the prescribed period. In these circumstances, the appellant cannot be denied the statutory benefit of interest on the admissible refund amount of Rs.1,85,93,345/-. We therefore hold that the appellant would be entitled to refund of Rs.1,85,93,345/- together with applicable interest under Section 27A of the Customs Act, 1962, to be computed in accordance with law.

7. The appellant has satisfactorily complied with the substantive conditions contained in paragraph 2(a), 2(b), 2(d) and 2(e) of Notification No.102/2007-Cus. The deficiencies pointed out by the department are procedural in nature and are neither material nor sufficient to defeat the substantive refund entitlement.

8. The appeal is allowed with consequential relief. The jurisdictional refund sanctioning authority is directed to grant refund of Rs.1,85,93,345/- together with applicable interest under Section 27A of the Customs Act, 1962, within

a period of three months from the date of receipt of this order, in accordance with law.

(Order pronounced in open court on 02.06.2026)

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

MK

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