CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 2

CUSTOMS APPEAL NO.20722 OF 2017

(Arising out of Order-in-Appeal No. 66/2017 dated 13.03.2016 passed by the Commissioner of Customs (Appeals), Bangalore.)

M/s. Sewing Systems Private Limited
(Earlier known as M/s. Hansel Textile Systems Pvt. Ltd.)
"SPRINGDALE" No. 51,
Residency Road, 1st Cross,
Bangalore – 560 025.

Appellant(s)

VERSUS

Commissioner of Customs,
TTMC/ BMTC Bus Stand Complex,
Banashankari,
Bangalore - 560 070.

Respondent(s)

WITH

CUSTOMS APPEAL NO.21281 OF 2017

(Arising out of Order-in-Appeal No. 94/2017 dated 31.03.2017 passed by the Commissioner of Customs (Appeals), Bangalore.)

M/s. Sewing Systems Private Limited
(Earlier known as M/s. Hansel Textile Systems Pvt. Ltd.)
"SPRINGDALE" No. 51,
Residency Road, 1st Cross,
Bangalore – 560 025.

Appellant(s)

VERSUS

Commissioner of Customs,
TTMC/ BMTC Bus Stand Complex,
Banashankari,
Bangalore - 560 070.

Respondent(s)

APPEARANCE:

Ms. Sakhee Mehta with Mr. Nithish Poojari, Advocates for the Appellant.

Mr. Vikalp Jain, Superintendent (AR) for the Respondent.

CORAM:

HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

FINAL ORDER NO. 20833 - 20834 / 2026

DATE OF HEARING: 09.07.2026

DATE OF DECISION: 09.07.2026

PER: R. BHAGYA DEVI

These Appeal Nos. C/20722/2017 and C/21281/2017 are filed against Order-in-Appeal No. 66/2017 dated 13.03.2017 and Order-in-Appeal No. 94/2017 dated 31.03.2017 passed by the Commissioner of Customs (Appeals), Bangalore.

2. Briefly the facts are that the appellant M/s. Sewing Systems Pvt. Ltd. earlier known as M/s. Hansel Textile Systems Pvt. Ltd. had imported garment accessories during the disputed period from 08.04.2011 to November 2012 claiming the benefit of exemption Notification No. 20/2006 dated 01.03.2006 (Sl. No.50) read with Notification No. 21/2012 dated 17.03.2012 (Sl. No. 12). At the time of filing of Ex-bond Bill of Entry, it was alleged that the appellant was not eligible for the benefit of Notifications, hence show-cause notices dated 05.06.2013 and 05.10.2013 was issued for the above disputed period. The original authority and the Commissioner (Appeals) upheld the demand invoking the extended period of limitation along with penalty under Section 114A of the Customs Act, 1962. Aggrieved by these orders, the appellant is in appeal before the Bench.

2.1 The Learned Counsel submits that the issue with regard to the same appellant for the period from April 2011 to March 2013 had already been decided by this Bench and though the demand has been upheld on merit, the demand has been confirmed only for the normal period; hence, she requests that in these two appeals also the demand needs to be confirmed only for the normal period in Appeal No. C/20722/2017 and in the Appeal No. C/21281/2017 since the entire demand is beyond normal period, the same needs to be set aside.

3. The learned Authorised Representative (AR) on behalf of the Revenue reiterating the findings of the Commissioner (Appeals) in the impugned orders submits that since it is self-assessed by the appellant and they knowingly claimed the benefit of the Notifications even though they were not eligible on the garment accessories imported by them, the Commissioner (Appeals) was justified in invoking the extended period.

4. Heard both sides. The only issue to be decided is as to whether the appellant is eligible for the benefit of the Notification No.20/2006 dated 01.03.2006. This Tribunal in appellant's own case, in an identical set of facts, held as follows:

> "5. ---- The issue to be decided is the availment of benefit of exemption of Additional Duty of Customs (SAD) leviable under Section 3(5) of Customs Act, 1962. The period of dispute in this case is April 2011 to March 2013 and the appellant had claimed the benefit of Notification No.20/2006-Cus. dated 01.03.2006 (Sl. No. 50) and Notification No. 21/2012 dated 17.03.2012 (Sl. No. 12), the relevant clause are reproduced below:
>
> **Notification New Delhi, the 1st March, 2006**
> **No. 20/ 2006-Customs 10 Phalguna, 1927 (Saka)**
>
> G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the goods of description specified in column (3) of the Table below, falling within the Chapter, heading, sub-heading or tariff item of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as are specified in the corresponding entry in column (2) of the said Table, when imported into India, from so much of the additional duty of customs leviable thereon under sub-section (5) of section 3 of

the said Customs Tariff Act, as is in excess of the amount calculated at the rate specified in the corresponding entry in column (4) of the Table aforesaid:

Sl. No.	Chapter	Description	Rate of Duty
50	Any Chapter	All goods specified in the First Schedule to the Additional Duty of Excise (Goods Special Importance) Act, 1957 (58 of 1957)	Nil

Government of India, Ministry of Finance
(Department of Revenue) New Delhi,

17th March, 2012

Notification No. 21 /2012- Customs G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act,1962 (52 of 1962) and in supersession of the notifications of the Government of India, in the Ministry of Finance (Department of Revenue), No. 20/2006-Customs, dated the 1st March, 2006, published in the Gazette of India, Extraordinary, part II, Section 3, Sub-section (i), vide number G.S.R. 92 (E), dated the 1st March, 2006, and No. 29/2010-Customs, dated the 27th February, 2010, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 92 (E), dated the 27th February, 2010, except as respects things done or omitted to be done before such supersession, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the goods of the description specified in column (3) of the Table below, falling within the Chapter, heading, sub-heading or tariff item of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as are specified in the corresponding entry in column (2) of the said Table, when imported into India, from so much of the additional duty of customs leviable thereon under sub-section (5) of section 3 of the said Customs Tariff Act, as is in excess of the amount calculated at the standard rate specified in the corresponding entry in column (4) of the Table aforesaid: Provided that in respect of the goods specified in S. Nos. 2, 46, 70, 87 and 98, imported on or after the 1st day of May, 2012, the exemption contained herein shall apply if the importer, declares,- (i) the State of destination where such goods are intended to be sold for the first time after importation on payment of value added tax; and (ii) his value added tax registration number in that State.

Sl. No.	Chapter	Description	Rate of Duty
(1)	(2)	(3)	(4)
12	Any Chapter	All goods specified in the First Schedule to the Additional Duty of Excise (Goods of Special Importance) Act, 1957 (58 of 1957)	Nil

As per the above Notifications, there is no doubt that all goods classified under any Chapter specified in the First Schedule to the Additional Duty of Excise (Goods Special Importance) Act, 1957 (58 of 1957) are exempted from Additional duty of customs. This First Schedule by the Finance Act, 2011, the relevant clause is reproduced below:

THE FINANCE ACT, 2011
[Act No. 8 of 2011]
[8th April, 2011]

An Act to give effect to the financial proposals of the Central Government for the financial year 2011-2012. Be it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

CHAPTER I
Preliminary

1. **Short title and commencement.** — (1) This Act may be called the Finance Act, 2011.

(2) Save as otherwise provided in this Act, sections 2 to 35 shall be deemed to have come into force on the 1st day of April, 2011.

Chapter IV
Indirect Taxes
The Thirteenth Schedule
[See section 78]

In the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957,—

(a) heading 1701 and all sub-headings and tariff items thereof and the entries relating thereto shall be omitted;

(b) tariff item 1702 90 10 and the entries relating thereto shall be omitted;

(c) headings 5007, 5111, 5112, 5208, 5209, 5210, 5211, 5212, 5407, 5408, 5512, 5513, 5514, 5515, 5516, 5801, 5802, 5803, 5804, 5806, 5810, 5901, 5902, 5903, 5907, 6001, 6002, 6003, 6004, 6005 and 6006 and all sub-headings and tariff items thereof and the entries relating thereto shall be omitted.

5.1 The exemption benefit of the Notification No.20/2006-Cus. dated 01.03.2006 (Sl. No. 50) and Notification No.21/2012 dated 17.03.2012 (Sl. No. 12), as seen above are available only to those goods which are specified in the First Schedule to the Additional Duty of Excise (Goods of Special Importance) Act, 1957 (58 of 1957). The First Schedule was amended vide Section 78(c) of the Finance Act, 2011 dated 08.03.2011 wherein the following goods were omitted. "(c)headings 5007, 5111, 5112, 5208, 5209, 5210, 5211, 5212, 5407, 5408, 5512, 5513, 5514, 5515, 5516, 5801, 5802, 5803, 5804, 5806, 5810, 5901, 5902, 5903, 5907, 6001, 6002, 6003, 6004, 6005 and 6006 and all sub-headings and tariff items thereof and the entries relating thereto shall be omitted."

5.2 In view of the above, the question of extending the benefit of Notification to the goods that were omitted does not arise. Therefore, the appellant's claim that the amendment to the First Schedule has no implication on the exemption Notification is absolutely of no legal basis in as much as the exemption Notification read with the amendment made to the First Schedule makes them ineligible for the benefit of the above Notification. There is no dispute that the Bills of Entry filed by the appellant was for clearance of textile materials classifiable under Chapter Headings 5407, 5516 and 5903 which specifically stand omitted by the above amendment. Hence, the Commissioner (Appeals) had rightly denied the benefit of the Notification. As rightly submitted by the Revenue, in view of the numerous decisions of the Hon'ble Supreme Court, any exemption Notification has to be strictly interpreted. Therefore, as discussed above, the appellant is not eligible for the benefit of the Notification during the disputed period.

6. The second issue is whether there was any misstatement or misdeclaration of facts so as to invoke extended period of limitation. The period of dispute is April 2011 to March 2013 wherein the appellant had filed Ex-bond Bills of Entry during the relevant period clearly showing the description of goods, the Chapter Heading and had paid BCD along with

> CVD and claimed the benefit of Notification No.20/2006-Cus. dated 01.03.2006 or Notification No. 21/2012 dated 17.03.2012 on SAD as the case may be. These Ex-Bond Bills of Entry placed on record have been clearly endorsed by the offices of the Customs as proof of assessment and allowed the goods to be cleared. Since, the description, specific chapter heading and respective duties liable to be paid are clearly mentioned and assessed to duty by the officers, the question of reopening the assessments for the extended period does not arise."

5. The issue in the present appeals is the same as above for an earlier period; hence, the issue on merits needs to be confirmed as the appellant is not eligible for the benefit of the Notification during the disputed period.

6. With regard to limitation, I find that in Appeal No. C/20722/2017, the show-cause notice was issue on 05.06.2013 for the period 08.04.2011 to 30.11.2012 and in the Appeal No. C/21281/2017, the show-cause notice was issued on 05.10.2013 for the period 13.07.2011 to 23.08.2011 and it is the contention of the appellant that they had not suppressed any facts nor there was any misdeclaration and the goods were cleared after proper assessment. The Commissioner (Appeals) in the impugned orders confirming the demand beyond the normal period observed as *'declaring and claiming any exemption on the ex-bond of BOE which is otherwise not admissible is a clear manifestation of intent which is not bonafide'*. In the present appeals I find that the ex-bond Bill of Entries have been assessed by the officers concerned and there is nothing on record to show that facts are suppressed or there is any misstatement on the part of the appellant claiming the notification. In the case **ANAND NISHIKAWA CO. LTD.** Versus **COMMISSIONER OF CENTRAL EXCISE, MEERUT 2005 (188) E.L.T. 149 (S.C.) dated 23-9-2005** the Hon'ble Supreme Court observed as follows:

> **"27.** Relying on the aforesaid observations of this Court in the case of *Pushpam Pharmaceutical Co*. v. *Collector of Central Excise, Bombay* [1995 Suppl. (3) SCC 462], we find that "suppression of facts" can have only one meaning that the correct information was not disclosed deliberately to evade payment of duty, when facts were known to both the parties, the omission by one to do what he might have done not that he must have done would not render it suppression. It is settled law that mere failure to declare does not amount to willful suppression. There must be some positive act from the side of the assessee to find willful suppression. Therefore, in view of our findings made herein above that there was no deliberate intention on the part of the appellant not to disclose the correct information or to evade payment of duty, it was not open to the Central Excise Officer to proceed to recover duties in the manner indicated in proviso to Section 11A of the Act. We are, therefore, of the firm opinion that where facts were known to both the parties, as in the instant case, it was not open to the CEGAT to come to a conclusion that the appellant was guilty of "suppression of facts". In *Densons Pultretaknik* v. *Collector of Central Excise* [2003 (11) SCC 390], this Court held that mere classification under a different sub-heading by the manufacturer cannot be said to be willful mis-statement or "suppression of facts". This view was also reiterated by this Court in *Collector of Central Excise, Baroda* v. *LMP Precision Engg. Co. Ltd.* [2004 (9) SCC 703]."

7. In the present appeals also, the facts are known to both revenue and the tax payer and there is nothing on record to show any deliberate attempt on the part of the appellant to have wilfully misstated the facts, hence following the ratio of the above decision I do not find any reason to sustain the demand the normal period. Accordingly, the demand is sustained for the normal period in Appeal No. C/20722/2017. In Appeal No. C/21281/2017 since the entire demand is beyond the normal period the same stands set aside.

8. Appeal No. C/20722/2017 is allowed by way of remand only for re-quantification of demand for the normal period and penalty under Section 114A stands set aside. Appeal No. C/21281/2017 is allowed.

(Order dictated and pronounced in Open Court.)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

gb/rv