IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA

REGIONAL BENCH – COURT NO.2

Customs Appeal No. 76337 of 2025

(Arising out of Order-in-Appeal No.KOL/CUS/PORT/KS/447/2023 dated 07.06.2023 passed by Commissioner of Customs(Appeals), Kolkata)

M/s. P.S.Srijan Heights Developers
36/1A, Elgin Road, Kolkata, West Bengal-700020.

Appellant

VERSUS

Commissioner of Customs(Appeals), Kolkata
15/1, Strand Road, Kolkata-700 001, West Bengal

Respondent

APPERANCE :
Shri Vikram Khaitan, C.A. for the Appellant
Shri A.K.Chowdhury, Authorized Representative for the Appellant

CORAM:
HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BEL SHRI K.ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO..75894../2026..

DATE OF HEARING : 16.07.2026
DATE OF DECISION : 16.07.2026

Per R.Muralidhar :

The appellant imported consignments of "Aluminium Formwork Structure with 'Accessories" for home consumption classifying the goods under Customs Tariff Item No. 76109010 claiming exemption benefit under Notification No. 152/2009-Customs SI.No. 610 as amended by Notification No.66/2016-Customs dated 31.12.2016 and submitted (under e-Sanchit) certificate of Country of Origin issued by the Korean Chamber of Commerce and Industries. The importer paid IGST @18% by classifying the goods imported under SL No.-271 of Schedule - III of IGST Notification 01/2017 dated 28.06.2017. The Department challenged the declared classification under Tariff 76109010 of the imported goods covered under the said Bills of Entry and has claimed that the same is appropriately classifiable under Tariff 84806000 and eligible for Duty exemption benefit under Sl.No.780 instead of SI.No. 610 of Customs Notification No.152/2009 and has further claimed that the applicable rate of IGST would be 18% under Sl.No.-367 instead of Sl.No.-271 of Schedule - III of IGST Notification 01/2017 dated 28.06.2017. It is alleged that the imported goods are assembled at the site of the construction and molten concrete mixture is poured in the hollow shape and after the concrete solidifies, the imported goods are disassembled and removed from the construction site and reused thereafter. The imported goods do not remain intact with the constructed structure at construction site and removed once the concrete solidifies, the same cannot be said to be structure for the purpose of classification and outside the purview of classification as structure under heading 7610. Further these imported goods are removed after the structures are ready and reused for another construction. Since these are used to shape the molten concrete mixture, these goods bear the essential characteristics of mould. Accordingly, Show Cause Notice came to be issued wherein differential duty was demanded along with interest and penalty. After due process, the demand came to be affirmed by the lower authorities. The appellants, being aggrieved, are before the Tribunal.

2. The Ld Chartered Accountant, appearing on behalf of the appellant submits as under:

2.1 The present appeal pertains to the import of Aluminum Formwork Structure by the appellants. The details of the litigation, Bills of Entry and Confirmed duty demand is as per the following Table:

Sl. No.	CESTAT Custom Appeal No.	Order in Appeal	Bill of Entry	Custom Duty	Social Welfare Charge	IGST	Custom Demand [In INR]
1	C/76337/2025 (IEC No. 02208022309)	KOL-CUS-PORT-KS-447-2023 dated 07.06.2023	Bill of Entry No. 9002497 dated 26-11-2018	0%	10%	18%	19,64,987

2.2 At the time of import, the appellant has submitted the invoice issued by the foreign supplier and the preferential certificate of origin issued by the Korea Chamber of Commerce & Industry classified the goods under the CTH 76109010 and hence the goods are correctly classifiable under CTH 76109010

2.3 The appellant relied on the decision of the Hon'ble Tribunal rendered in the case of Ranjita Agencies vd CC (Port) report in 2001 (133) ELT 388 (Tri-kol) as well as Hon'ble Tribunal in the case of Vima Industrial Plastics cs CC reported in 1997 (95) ELT 260 (Tri- Del).

2.4 The appellant further relied on ITC-HS code provided by search engine of website www.indiantradeportal.in, which is developed and updated by the Federation of Indian Export Organisation (Set up by Ministry of Commerce, Government of India) wherein tariff heading of aluminium formwork materials, aluminium formwork panels including all accessories is '761090'.

2.5 The appellant contends that imported goods in the present case are prima facie classifiable under two tariff headings and in reference to the Rule 3(a) of GIR, Tariff heading 7610 has a specific entry for Aluminium Structure while the Tariff Heading 8410 i.e. Moulds is a mere general description and the goods is predominantly made of aluminium consisting of aluminium panels, it would be covered under Tariff Heading 7610 which also covers parts of structures.

2.6 It is further submitted that the issue is no more *res integra*. The very same issue has been taken up by the Kolkata Bench in the case of *Alcove Construction Private Limited Vs Commissioner of Customs (Port) [Appeal No.766061/22023]*. The Tribunal vide Final Order No.76984/2024 dated 12.09.2024, held that the goods in question would be classifiable under CTH 76109010 and not under CTH 84806000, as has been held by the Revenue.

2.7 On an identical issue, the Hyderabad Tribunal in the case of *Vijay Nirman Co. Ltd Vs Principal Commissioner of Customs, Vishakapatnam [Appeal No.C/30237/2021]* vide Final Order No.A/30009/2025 dated 13.01.2025, held that the goods are classifiable under CTH 76109010.

3. In view of the above submissions, it is prayed that the impugned order may be set aside the appeal may be allowed.

4. The Ld A R reiterates the detailed findings of the lower authorities. He submits that the goods in question are in the nature of 'mould' only and they are put to use continuously for various construction activities undertaken by the appellant. These are easily removable and are used again and again. He stands by the confirmed demand.

5. Head both the sides. Perused the appeal papers.

6. We find that the issue is no more *res integra*. This matter had come up before the very same Bench in the case of **Alcove Construction Private Limited Vs Commissioner of Customs (Port) [Appeal No.766061/22023]. Vide Final Order No.76984/2024 dated 12.09.2024**, it has been held as under:

> *7. From the Explanatory Notes under HSN (copy of which was provided by the appellant), we find that under 7308.40, "Equipment for scaffolding, shuttering, propping or pit-propping" are given, under Chapter 73, pertaining to structures of iron or steel. The Explanatory Notes to heading 76.10 state that the Explanatory Note to heading 73.08 apply, mutatis mutandis, to the heading under 76.10.*
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> *7.1. When both of these are read together, it would mean that when the goods viz., Aluminium structures in this case, are similar to equipment for scaffolding, shuttering, propping or pit-propping, the same would get classified under heading 76.10 only. Therefore, we hold that the appellant was correct in classifying the impugned goods under CTH 7610 90 10.*

7. Subsequently an identical issue also reached the Hyderabad Tribunal in the case of **Vijay Nirman Co. Ltd Vs Principal Commissioner of Customs,**

Vishakapatnam [Appeal No.C/30237/2021] vide Final Order No.A/30009/2025 dated 13.01.2025, wherein it has been held as under:

> *18. It could be seen that the department is proposing that these are more in the nature of moulds for mineral materials. On perusal of HSN explanatory note (f) to CTH 8480, it would be seen that it covers (i) moulds for ceramic pastes (e.g., brick moulds, moulds for pipes or for other articles of ceramics, including moulds for artificial teeth) and (ii) moulds for moulding concrete, cement or asbestos-cement goods (tubes, vats, paving stones, flags, chimney-pots, banisters, architectural ornaments, wall, floor or roof slabs, etc.). Therefore, what is apparent is that it covers that kind of mould, which will mould concrete, etc., into various items like tubes, vats, paving stones, flags, etc. It will also include the mould walls, floor or roof slabs. Here it is important to note that the expression used, "wall, floor or roof slabs, etc.", means that slabs which are meant for use in walls, floors or roofs are also made by using moulds. Essentially, in the case of mould, the articles which are made by way of moulding concrete, etc., are the articles which are end products of the moulding product and the same is thereafter used for certain other purposes including construction purposes. Whereas, in the case of impugned goods, they are acting as a support for setting of the concrete and the structure once set in stays where it is and only the plates are removed. Therefore, there is stark difference between this product and the mould and therefore, AFM cannot be treated as if it is a mould for moulding in building or a house. It is nobody's case that these were used for making parts which were later assembled for construction of house rather from the facts, it is apparent that these were used as shutters and support, in situ, where the concrete gets set and immovable structures like houses, building, etc., emerge.*
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> *19. On the other hand, CTH 7610 covers, inter alia, all kinds of aluminium structure except for the exclusion provided, i.e., mould falling under Chapter 84. Therefore, even if there is a mould made out of 100% aluminium also, it would be*

not classifiable under CTH 7610 and it will be falling under Chapter 84. However, when the product itself is not a mould then the exclusion will not be applicable. The same heading also includes aluminium plates, rods, profiles, tubes and the like, prepared for use in structures. In this case, as discussed in the foregoing paras, these goods are nothing but various aluminium plates though custom designed, which are assembled at site, in situ, for construction of buildings, etc. Since in view of the use of this panel it cannot be called a mould, therefore, reclassification proposed by the department is not sustainable and classification claimed by the appellant will have to be accepted.

23. We also find that the reliance has been placed by the learned Advocate on the recent judgment of the coordinate bench at Kolkata, where the similar item has been held to be classifiable under CTH 76109010 and therefore, the ratio of the said judgment is applicable to the present factual matrix as the facts are more or less identical.

24. In view of the discussions in the foregoing paras, we find that the product AFM imported by the appellant is rightly classifiable under CTH 76109090 and not under CTH 84806000, as confirmed by the Adjudicating Authority. Moreover, since there is no dispute as regards origin of the goods, therefore, once the goods are falling under CTH 7610, the same would be entitled for exemption notification 152/2009 dt.31.12.2009 at S.No.610. In view of the same, the Order of the Adjudicating Authority is not legally tenable and therefore, we set aside.

8. We find that to the factual matrix of the present appeal, the ratio laid down in the cited decisions are squarely applicable. Therefore, we hold that the Revenue is in error in classifying the goods in question under CTA 84806000 and the goods are classifiable under CTH 76109010 only.

9. Accordingly, we set aside the impugned order and allow the appeal. The appellants would be eligible for the consequential relief, if any, as per law.

(operative part is pronounced in open court)

(R.Muralidhar)
Member (Judicial)

(K.ANPAZHAKAN)
Member (Technical)

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