CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 60232 of 2024

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-55-2023 dated 14.02.2024 passed by the Commissioner of Customs (Appeals), Ludhiana]

M/s Diamond Mink Blankets Ltd **......Appellant**
Reg. Office -5/IV, the Mall
Ludhiana, Punjab 141001

VERSUS

Commissioner of Customs, Ludhiana **......Respondent**
Customs House, ICD-GRFL Complex
G.T. Road, Sahnewal
Ludhiana

APPEARANCE:

Shri Naveen Bindal and Shri Bharat Jain, Advocates for the Appellant

Shri Anurag Kumar, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)

FINAL ORDER NO. 60533/2026

DATE OF HEARING: 28.04.2026
DATE OF DECISION:17.08.2026

The present appeal is directed against the impugned order dated 14.02.2024 passed by the Commissioner (Appeals), CGST, Ludhiana, whereby the learned Commissioner (Appeals) has rejected the appeal of the appellant and upheld the Order-in-Original.

2. Briefly the facts of the present case that the appellant is engaged in the business of import and trading of various plastics and textile products; in the years 2012-2014, the appellant filed the

Bills of Entry for clearance of imported goods. The Assessing Authority rejected the appellant's declared value in Bill of Entry No. 93 dated 18.6.2012, Bill of Entry No. 9482688 dated 05.03.2013 along with 12 other Bills of Entry and re-determined the values under Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Aggrieved by the said assessment, the appellant challenged the assessed bills of entry before the Commissioner of Customs (Appeals), Ludhiana on various grounds and the Learned Appellate Authority, vide Order dated 11.03.2022, set aside the order of the Assessing Authority and accepted the appellant's declared value in respect of the 14 Bills of Entry, including the Bill of Entry No. 93 (Manual) dated 18.6.2012 and Bill of Entry No. 9482688 dated 05.03.2013.

2.1 Thereafter, on 07.12.2022, the appellant filled refund claim for 4% SAD amount in the Bills of Entry No. 93 (Manual) dated 18.06.2022 and Bill of Entry No. 9482688 dated 05.03.2013. On the same date i.e., 07.12.2022, the appellant also filed for the refund of the Special Additional Customs Duty in the provisionally assessed Bill of Entry No. 7697017 dated 17.08.2012. Even After 11 years later, the Bill of Entry has not been finally assessed, though the appellant raised a query on ICEGATE on 01.10.2020 and came to know that there was a pending lost report for the above Bill of Entry; finally, the appellant also found that the Revenue was unable to trace the files relating to this particular Bill of Entry; as the provisionally assessed Bill of Entry is provisional for all purposes, the appellant had applied for the refund of 4% SAD in Bill of Entry No.

7697017 dated 17.8.2012 on 7.12.2022, along with the other two Bills of Entry. After following the due process, the respondent vide Order-in-Original dated 08.05.2023 rejected the refund claim of Rs. 1,53,373/- on the ground of limitation relying upon the notification no. 93/2008-CUS dated 01.08.2008. The appellant preferred an appeal which was also dismissed vide order dated 14.02.2024.

3. Heard both the parties and perused the material on record.

4. The learned Counsel for the appellant submits that the impugned order is not sustainable in law and is liable to be set aside as the same has been passed without properly appreciating the facts and the law; and binding judicial precedents.

4.1 He further submits that the rejection of the refund only on the ground of limitation by resorting to Notification No. 93/2008-C dated 01.08.2008 is not sustainable in law. He further submits that in the earlier Notification No. 102/2007-Customs dated 14.09.2007, there was no period of limitation; by Circular No.6/2008-Customs, an amending notification providing for one-year period from the date of payment of the additional duty of customs was issued, through Notification No.93/2008 Customs dated 01.08.2008, amending Para 2(c) of the Notification No. 102/2007; the net effect of these was that a one-year period was insisted upon for refund applications; the said Notification was set aside by the Hon'ble Delhi High court in cases of ***M/s Sony India Pvt. Ltd. v/s The commissioner of Customs, New Delhi - 2014 (304) ELT 660 (Delhi), Commissioner of Custom (ICD Imports) and others v/s***

Suzuki Motocycle India Pvt. Ltd. - (CUSAA 57 of 2025 dt. 21.03.2025) and ***M/s Premier Timber and Trading Pvt. Ltd. Vs. Commissioner of Customs, (Import)- 2026 (39) CENTAX 3(Del.).***

4.2 As regards the Bill of Entry 7697017 dated 17.8.2012 is concerned, the learned Counsel submits that it was provisionally assessed and as on the date of fling the appeal, the same has not been finalized and therefore in the case of provisional assessment, the limitation is inapplicable because the limitation is to start from the date of finalization of assessment as held in the case of **M/s Tisco Ltd. Vs. Commissioner, 1999 (114) ELT 461(T).**

5. On the other hand, the learned Authorized Representative for the Department has also filed written submissions and has also relied upon by the judgment of the Bombay High Court in the case of ***M/s CMS Info Systems Ltd. Vs. Union of India – 2017 (349) ELT 236 (Bom.) [19.12.2016]*** which was subsequently followed by the Bombay High Court in the case of Commr. Of Cus. NS-III Vs. M/s DSM Sinochem Pharmaceuticals (I) Pvt. Ltd – 2018 (359) E.L.T. 509 (Bom.) [04.10.2017.]. He further submits that the limitation period prescribed in the Notification has to be construed strictly and the limitation of one year has not been complied with and therefore, the refund has rightly been rejected. He further submits that the decision of the Delhi High Court in the case of ***M/s Sony India Pvt. Ltd.*** is not applicable in the present case and is distinguishable.

6. I have considered the submissions of both the parties and perused the material on record and the judgments relied upon by both the parties. I find that though the Notification No. 102/2007-Customs dated 14.09.2007 as amended by Notification No. 93/2008-C dated 01.08.2008 prescribed that the refund should be filed within one year from the date of payment of SAD, but the said condition by the Notification has been read down by the Delhi High Court in the case of ***M/s Sony India Pvt. Ltd.*** and subsequently in the case of ***Suzuki Motocycle India Pvt. Ltd.*** (Cited Supra), though Bombay High Court has taken a contrary view in the matter and upheld the limitation as prescribed under Notification.

7. I also note that this Tribunal in the case of ***M/s Ghaio Mall and Sons Vs. C.C. Ludhiana in Appeal No. C/61217/2018*** Vide Final Order No. ***62972/2018 dated 12.09.2018,*** has held as under:

> *6. After considering the submissions made by both the parties and perusal of the material on record, I find that as per the Notification No. 102/2007-Cus dated 14.09.2007 as amended vide Notification No. 93/2008-Cus dated 01.08.2008, additional duty of customs is exempted if the goods are imported for the subsequent sale. Further, I find that the appellants have filed the refund claim within one year from the date of subsequent sale. Further, I find that this issue is squarely covered by the decision of Hon'ble High Court of Delhi in the case of Sony India Pvt Ltd. v. CC, New Delhi (supra), wherein it has been held that the time limitation of one year specified under the above Notification shall not apply until and unless the basic*

provisions of Section 27 of the Act dealing with refunds are made applicable. Further the Hon'ble High Court in para 16 and 17 of the above case has observed as under:-

> *"16. Plainly, therefore. Section 27 was understood as not applying to SAD cases, even though it was in the statute book for many years. Yet, with the introduction of the circular and then the notification (No. 93), the Customs authorities started insisting that such limitation period which was prescribed with effect from 1-8-2008 (by notification) became applicable. There is a body of law that essential legislative policy aspects (period of limitation being one such aspect) cannot be formulated or prescribed by subordinate legislation. Khemka and Co. (Agencies) Private Ltd. v. State of Maharashtra, (1975) 35 STC 571 and other decisions are authority on the question that in matters which deal with substantive rights, such as imposition of penalties and other provisions that adversely affect statutory rights, the parent enactment must clearly impose such obligations; subordinate legislation or rules cannot prevail or be made, in such cases. The imposition of a period of limitation for the first time, without statutory amendment, through a notification, therefore could not prevail.*
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> *17. For these reasons, this Court holds that the amending notification must be read down to the extent that it imposes a limitation period. The question of law framed is therefore, answered in favour of the assessee and against the Revenue. The appeal accordingly succeeds and is allowed without any order as to costs."*

7. In view of the decision of Hon'ble High Court of Delhi in the case of Sony India Pvt Ltd. v. CC, New Delhi (supra), I am of the considered view that the issue is squarely covered in the favour of the appellants and by following the ratio of the said decision, I set aside the impugned *order by allowing the appeal with consequential relief, if any.*

8. In view of the decisions relied by the appellant (cited supra), I am of the considered view that the impugned order is not sustainable in law and therefore, I set aside the same by allowing the appeal of the appellant with consequential relief, if any, as per law.

(Order pronounced in the open court on 17.08.2026)

(S. S. GARG)
MEMBER (JUDICIAL)

Kailash