CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 60348 of 2025

[Arising out of Order-in-Original No. COMMR/NA/LDH/CUSTOMS/19/2024 dated 27.12.2024 passed by the Commissioner of Customs, Ludhiana]

M/s Saatvik Green Energy Limited ......**Appellant**
(formerly known as Saatvik Green Energy Private Limited)
Village Dubli, V.P.O. Bihta Tehsil, Ambala,
Haryana-133101

VERSUS

Commissioner of Customs, Ludhiana ......**Respondent**
Customs House, ICD-GRFL Complex, G.T. Road, Sahnewal, Ludhiana, Punjab-141120

APPEARANCE:

Shri Rishabh Jain, Ms. Divya Sharma and Shri Yuvraj Singh, Advocates for the Appellant
Ms. Ashima Bansal and Ms. Amit Gupta, Authorized Representatives for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60546/2026

DATE OF HEARING: 13.08.2026
DATE OF DECISION: 20.08.2026

P. ANJANI KUMAR:

Saatvik Green Energy Ltd (formerly Saatvik Green Energy Pvt Ltd), the appellant, challenge the Order-in-Original, dated 27.12.2024, passed by Commissioner of Customs, Ludhiana.

2. The appellant is a manufacturer of Solar Photovoltaic Modules classifiable under HSN 8541; the Appellant imports "Aluminum Hollow Profiles" and declared calcification under Customs Tariff Item (CTI) 76042100 (Aluminum bars, rods and profiles – Of aluminum alloys: Hollow profiles"); however, the description given in commercial invoices was "Aluminum Solar Frame"; the appellants claim that the imported profiles undergo substantial further processing before being incorporated into the finished product; the Appellant availed benefit of Serial No. 39 of Notification No. 24/2005-Cus dated 01.03.2005 as the final product manufactured by them was covered by Sl. No. 23 Ibid; imported goods were being cleared under continuity bonds with surety; end-use certificates were being issued by the Assistant Commissioner, Export Promotion Circle, Panchkula.

2.1. On conduct of an audit, revenue entertained an opinion that the impugned goods were classifiable under CTH 76169990. A Show Cause Notice, dated 08.08.2024, was issued proposing to reclassify the goods and seeking to demand differential duty of Rs. 5,94,84,778 (as applicable to 112 Bills of Entry on a total assessable value Rs. 80,11,42,808) along with interest, penalties and fine. Commissioner, vide impugned order:

(i). held that the impugned goods are liable for confiscation under Sections 111(o) and 111(m) of the Customs Act, 1962; imposed a redemption fine of Rs. 5,00,00,000 under Section 125 of the Customs Act, 1962; denied the benefit of Notification No. 24/2005-Cus dated 01.03.2005.

(ii). Confirmed the demand of duty of Rs 5,94,84,778 under Section 28(4) of the Customs Act, 1962, along with interest under Section 28AA of the Customs Act, 1962.

(iii). Appropriated Rs. 1,64,42,420/- already paid by the appellants, on a "First-In-First-Out" basis.

(iv). Imposed a penalty of Rs. 5,94,84,778/- under Section 114A the Customs Act, 1962.

3. Shri Rishabh Jain, Learned Counsel for the appellants, submits that the imported goods fall precisely under the description of CTI 76042100 ("Aluminum bars, rods and profiles – of aluminum alloys: Hollow profiles); the mention of the words "Aluminum Solar Frame", in the commercial documents was merely to describe the intended end-use, does not alter the essential character of the goods as hollow profiles. He submits that the impugned order on the one hand holds the goods to be "cut to sizes profiles of Aluminum and on the other that the frames are assembled in tailor-made sizes to make it as frame of Aluminum; goods that are "cut to size profiles" requiring to be "assembled" cannot, in the same breath, be a complete frame; there is no intermediate stage like frame; the imported profiles are taken directly onto the module and sealed with silicon sealant, subjected to JB fixing and soldering and JB silicon potting on automatic assembly machines, and fixed by clamps to constitute the Solar PV Module; no article of CTH 7616 ever comes into existence.

4. Learned Counsel for the appellants submits further that classification needs to be determined on the basis of the nature of

the goods as presented; by Rule 1 of the General Rules for the Interpretation of the First Schedule, classification is to be determined according to the terms of the headings and the relative Section and Chapter Notes. He submits that the impugned order determines the classification depending on what the profiles become after clearance in the Appellant's factory; goods must be assessed as imported, i.e., hollow profiles, without reference to their use downstream in the manufacturing processes into the goods. He submits that during personal hearing, the Appellant placed on record a video demonstrating the manufacturing process, which established that no ready-to-use frame is imported or used as such; imported profiles undergo sealing, JB fixing, soldering and potting before becoming part of the module; learned commissioner neither analyses the video nor addresses the submissions.

5. Learned Counsel for the appellants submits also that Explanatory Notes to Heading 74.07 apply mutatis mutandis to Heading 76.04; the notes provide that profiles which have been cold-finished or otherwise worked ("drilled, punched, twisted, or crimped") remain within the heading "provided that they do not thereby assume the character of articles or of products of other headings,; it means the imported profiles, though cut to size and worked to a finish of higher precision, have not assumed the character of any article of another heading, and therefore remain in Heading 76.04. He submits that the impugned order records no finding that the goods had assumed the character of an article of CTH 7616; commissioner does not rely on any technical foundation, physical examination, test, or expert

opinion to establish that the goods were anything other than the hollow profiles declared.

6. Learned Counsel for the appellants submits in addition that department's reliance upon U.S. Customs Ruling NY N139353 dated 13.06.2011 by the is misplaced; the said ruling concerned aluminum frames "punched and notched with the ends of the extrusion being mitered," requiring nothing beyond snapping together which is materially different from the present goods; the consistent international practice is otherwise; the appellant is relies on US Customs Ruling in N326606 (06.07.2022), NY N337825 (16.02.2024) and NY N188057 (01.11.2011); it was held in N337825 that aluminum extrusions/ profiles intended for further use in manufacture requiring machining, drilling, notching, cutting and assembly were to be classified under subheading 7604.21, regardless of intended end-use. He submits that furthermore, the department cannot blow hot and cold in the same breath; while the impugned order classifies the identical goods under CTH 76169990, the Department at Mundra has classified the very same material under CTH 76109020 vide Order-in-Original No. MUN-CUSTM-OOO-COM-045-24-25 dated 28.02.2025; such inconsistency within the same Department renders the impugned finding unsustainable.

7. Learned Counsel for the appellants submits also that the commissioner was wrong in denying the benefit of Notification No. 24/2005-Cus (at Sl. No.39); the benefit is available irrespective of classification within Chapter 76, provided that the importer follows

the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017; the impugned goods fall in Chapter 76, and they are used for manufacture of Solar PV Modules (mentioned at Sl.No.23 of the Notification); exemption is applicable irrespective of the classification. He submits that the impugned order denies the benefit on the reasoning that an aluminum frame is a "complete and distinct article having general use" which "can be used for manufacture of multiple items; the reasoning is hypothetical as the goods are imported following the procedure under Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017; necessary bond was given by the appellant and end-use certificates issued by Jurisdictional authorities were submitted.

8. Learned Counsel for the appellants submits that Commissioner's reliance on the case Dilip Kumar & Co (Civil Appeal No. 3327 of 2007) is incorrect; Hon'ble Apex Court held that strict construction is needed only when there is ambiguity in the notification; there is no ambiguity in the notification; exemption cannot be denied where the language is plain as held in M/s Gold Pvt Ltd (Customs Appeal No. 50726/2021).

9. Learned Counsel for the appellant submits that extended period of limitation is not applicable in a case involving dispute of classification i.e. a pure question of interpretation. He relies on Tribunal decision M/s Midas Fertchem Impex Pvt. Ltd (Customs Appeal No. 52239 of 2021) and submits that claiming a classification for imported goods is not a mis-declaration but merely an exercise of self-assessment, subject to re-assessment by the officer; a

difference of opinion on classification is not suppression or willful mis-statement. He submits that the Appellant made a full and true declaration of description, value, quantity, supplier and the intended end-use in every Bill of Entry; the goods were assessed and cleared by the proper officers over a period of years under bonds and end-use certificates; of which the Department was fully aware; no material fact was withheld and nothing was suppressed. He submits that the impugned order infers willful mis-statement as the Appellant had classified similar goods under CTH 76109090 /76169990in some Bills of Entry and that the change in classification was a deliberate move to pay lower rate of Basic Customs Duty; the inference is untenable and the importer is not bound by a classification adopted on some earlier occasion; a heading attracting a higher rate cannot be assumed to be correct; change of classification is due to evolving understanding and cannot be equated with an intent to evade.

10. Learned Counsel for the appellant submits that confiscation under Section 111(m) is unsustainable as no entry in respect of value or any other particular was misdeclared; as no post import condition is violated, provisions of Section 111(o) also are not attracted. He submits that redemption fine of Rs. 5,00,00,000/- is, in any event, manifestly excessive and wholly unreasoned; goods were imported bona fide, correctly described, and legitimately consumed in manufacture; substantial part of the duty was paid under protest and the order discloses no basis whatever, no margin of profit, no correlation with any violation, for the quantum fixed. A

fine imposed without reasons cannot stand. He submits that as extended period cannot be invoked, penalty under Section 114A cannot survive; as the matter is one of interpretation of classification and of an entry in the exemption notification, no penalty is imposable as held in Hindustan Steel Ltd 1978 E.L.T. (J159) and White Line Chemicals 2008 (229) ELT 95 (Tri. -Ahmd.), it was held that a bona fide interpretation of a notification does not call for any penalty. No deliberate defiance, and no dishonesty, has been established here.

11. Learned Counsel for the appellant submits lastly that the appropriation of Rs. 1,64,42,420/- paid under protest is erroneous; the amount was paid and expressly earmarked, in respect of Bills of Entry filed after the amendment of 01.02.2022 (effective from 01.04.2022); the impugned order re-applies it, on a "First-In-First-Out" theory for which there is no statutory basis, against the earliest and pre-amendment Bills of Entry that were validly covered by the exemption; the appropriation is liable to be set aside.

12. Learned Counsel for the appellant submits vide additional written submissions that

(i). the Explanatory Notes to Heading 74.07 govern Heading 76.04, and a profile that is merely worked or cut to size remains classified under Heading 76.04; Aluminum profiles of this description are extruded and supplied in standard lengths of approximately 20 feet; the Appellant imports them not in such running lengths but cut to three shorter lengths, namely 7.8 feet, 7.47 feet and 3.7 feet, each cut from the standard 20-foot extrusion.; Cutting a profile to a shorter length is the paradigm of “working” that the Explanatory Note to Heading 74.07 (applicable to Heading 76.04) expressly permits without change of classification: a profile cut to size remains a profile.

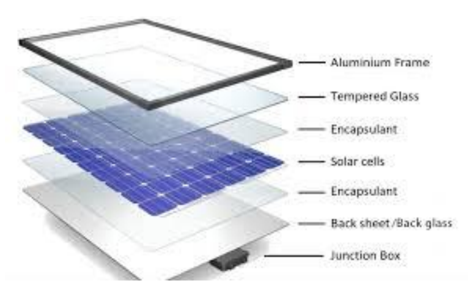
(ii). Department relies on heading CTI 76169990, which is a residuary entry; resort to a residuary entry is taken only when no specific heading covers them; impugned goods are covered specific heading i.e. CTI 76042100, i.e. “hollow profiles”; also, heading 76.16 is confined to finished, distinct “articles” of aluminium; the imported goods are not such articles and are only semi-finished part/article; these cannot be covered under a heading meant for “articles of aluminium”; goods are not yet articles at all but remain profiles; thus, the impugned goods fit the description under Heading 76.04 and fall outside the description under Heading 76.16.

(iii). Hon'ble Supreme Court has reaffirmed in *Welkin Foods* (2026) 38 Centax 104 (S.C.) that classification to be governed by the tariff headings, the Explanatory Notes and the General Rules of Interpretation; the description of the goods and their end-use are irrelevant save where the heading itself refers to use; end-use becomes relevant only where the tariff heading itself refers to "use" or "adaptation. He submits that in the impugned case, description mentioned in commercial invoice or the trade parlance cannot be the basis of classification; the label "Aluminium Solar Frame" does no more than record the intended end-use’; there is no reference to any use in the competing headings; even where use is relevant, it is only the *intended* use and the actual use.

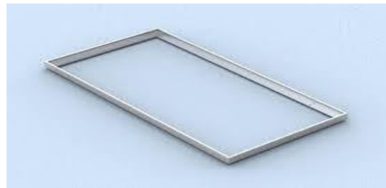
12. Learned Counsel for the appellant submits pictorial representation of the impugned goods, usage and the department's classification as follows.

(A) Actual Imported Aluminum Profiles (HSN 7604)

(B). Main components of Solar PV Module



(C) Aluminum Frame (Deptt understanding under CTH 7616)



13. He submits that as can be seen above that such solar frames as alleged by department were never imported; department's position fundamentally misapprehends the manufacturing process whereby the final frame shape is achieved only through robotic assembly when all components are simultaneously integrated during the process of manufacture of Solar PV Module; imported profiles, in their individual state, cannot function as frames and require substantial assembly operations including precise fitting, sealing, and integration with other solar panel components; the Explanatory Notes specifically contemplate that items may be worked upon through drilling, punching, twisting, or crimping without assuming the character of articles classified under other headings.

14. Ms. Amita Gupta, Learned Authorised Representative for the Revenue reiterates the findings of the impugned order. She relies on U.S. Customs Ruling NY N139353 dated 13.06.2011 and N 305694 dated 30-08-2019 and Final Order No 20497-20499/2019, dated 28.06.2019, passed by Bangalore Bench of CESTAT, in the case of D&M Building Product Pvt Ltd. She submits that the impugned order be upheld and the appeal be dismissed.

15. We find that the importer has imported aluminium profiles declaring the description of the goods in the commercial invoice as “Aluminum Solar Frame” and has claimed classification under

Customs Tariff Heading 7604 which covers aluminium bars, rods and profiles. The appellant availed benefit of Serial No. 39 of Notification No. 24/2005-Cus dated 01.03.2005 as the final product manufactured by them was covered by Sl. No. 23 ibid, on the strength of the said classification up to 01.04,2022. The Revenue seeks to re-classify the imported goods under residual Heading 7616 99 covering "*other articles of aluminium*" on the ground that the goods are not mere profiles of aluminium, but are finished articles, specifically - frames for solar panels, and consequently seeks to deny the exemption. The appellant submits that the classification arrived at by the Revenue is based on the description of the goods given in the commercial invoice, classification claimed by the appellant himself in some bills of entry previously, the possible use of the product and not on the actual nature of the goods when imported.

16. We find that the following questions or issues that require our consideration in the case are as follows.

(i) whether the imported "Aluminum Hollow Profiles", as presented, are classifiable under CTI 76042100 as declared, or as "Aluminum Solar Frames" under CTH 76169990;

(ii) whether, in any event, the benefit of Serial No. 39 of Notification No. 24/2005-Cus is available to goods of Chapter 76 used in the manufacture of Solar PV Modules, irrespective of their precise classification within that Chapter;

(iii) whether the extended period of limitation under Section 28(4) is available in a bona fide dispute of classification; and

(iv) whether the confiscation under Sections 111(o) and 111(m), the redemption fine under Section 125, and the penalty under Section 114A, are sustainable.

17. Coming to the first issue, we find that the Show Cause Notice discusses the classification as follows.

> 2. The items self-declared as "Aluminium Solar Frames" are used to seal and fix solar battery components. They provide the structural stability for the overall combination of glass, EVA encapsulates, the cell and the back sheet. There is no further processing of the aluminium frames. Therefore, they merit classification under CTH 76169990, which provides for other articles of aluminium, other...other. Further Noticee availed benefit of S. No. 39 under Notification No. 024/2005 for the imported goods. The said Notification S. No. is applicable on All goods for the manufacture of goods covered by S. No. 1 to 38 above, provided that the importer follows the procedure set out in the customs (Import of goods at Concessional rate of duty) Rules, 2017". The said item is aluminium Solar Frame which is not covered under this benefit and BCD@ 10%, SW'S (@ 10% and IGST (@ 18% is required to be paid.
>
> ……..
>
> 4.2 However, the Noticee has described the product as "Aluminium Solar Frame" at the time of imports and classified under heading of "Hollow profile". Further, the goods under CTH 76042100 are covered "Hollow profile" which comes in running length and is not cut to size. The subject goods are imported cut to size for assemble of Aluminium solar frame which also proves that the subject goods are not hollow profile but a complete product of frame. In this case as per US Rulings, it appears that the product is correctly classifiable under CTI 76169991,

i. Ruling No. NY N139353 dated 13.06.2011: The said Ruling has been issued for classification of aluminium frames for solar panels from China. After discussion, it has been held that the said item is classifiable under Chapter tariff item: 7616.99.5090 at ten-digit level. The tariffs are aligned with HSN at least at six-digit level, it therefore appears that the said aluminium frames for solar panels is classifiable under Chapter tariff item: 76169990 which is meant for other articles of aluminium, other...other.

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4.4. Further, the Noticee has already imported and cleared the subject goods under the classification of 76109090 under 38 nos. Bills of Entry (80-line items) during the years from 2023 to 2024 and under the correct classification of 76169990 under 29 nos Bills of Entry during the years 2024. Hence, the 'Aluminium Solar Frame' is correctly classifiable under CTH 76169990. It is further observed that CTH 76042100 is eligible for less BCD i.e. (a:7.5% but BCD rate under CTII 76169990 is @10%. Hence, it appears that the Noticee has changed the classification for availing the benefit of BCD.

………

18. It is clear from the above that the Show Cause Notice that the Show Cause Notice alleges that the impugned goods are frames for the reasons that the appellant self-declared the items as solar frame; they are not in running length but are cut pieces and US Customs Rulings No. NY N139353 dated 13.06.2011 and N 305694 dated 30-08-2019 hold that aluminium frames for solar panels are classifiable under CTI 76169990.

19. Interestingly, the SCN misses out to state the intention to reclassify the impugned goods in the Charging Para, which runs as follows.

12. In view of the above, the Noticee M/s Saatvik Green Energy Pvt Ltd. (IFC No.- 221500342;) having address at Sub Tehsil

Saha, Vil-Dubli. Ambala, Haryana-133101 is hereby called to show cause to the Commissioner of Customs. Ludhiana within 30 days of the receipt of this notice as to why:

(i) Differential/short paid Duty amounting to Rs. 5,94.84,778/- (Rupees Five Crore Ninety-Four Lakhs Eighty-Four Thousand Seven Hundred and Seventy-Eight Only) for the subject goods imported vide Bill of Entry Nos. as detailed in Table- B should not be demanded under Section 28(4) of the Custom Act, 1962 and appropriate the duty amount of Rs. 1,64.42.420/- has already been paid vide challan No. 931/IMP/GRFL/2024 dtd. 30.03.2024.

(ii) In addition to the duty short paid, interest on delayed payment of Basic Custom Duty should not be recovered from the Noticee under section 28AA of the Customs Act, 1962.

(iii) The said subject goods imported ide Fill of Eury Nos, as detailed in Table - B having assessable value of Rs. 80,11,42,808/- (Rupees Eighty Crore Eleven Lakh Forty-Two Thousand Eight Hundred and Light Only) should not be held liable for confiscation under Section 111(0) and 111(m) of the Customs Act, 1962.

(iv) Penalty should not be imposed on the Noticee under Section 112(a)of the Customs Act. 1962 for their acts of omission and commission, in rendering the goods liable for confiscation, as stated above.

(v) Penalty should not be imposed upon the Noticee under Section 114A of Customs Act, 1962 for short levy of duty.

20. We find that a look at the above Show Cause Notice makes it clear that the Notice intends to recover differential duty along with interest and to impose penalties. The Show Cause Notice was not clear in its intent. The appellant could have taken a plea that he was not put to notice on the issue of re-classification; the principles of Natural Justice were not followed and that the impugned order

traversed beyond the scope of the Show Cause Notice. This is enough reason to set aside the proceedings. However, we find that the interest of justice is served well if the issue is decided on merits.

21. We find that the learned Commissioner finds as follows as regards the classification is concerned.

> 4.6. The RULE-1 of the "General Rules for the interpretation of the Harmonized System (GIR)" states as under:
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> > "The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the heading and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions.
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> It is argued by the Noticee that "Aluminium Solar Frame" falls under CTH 76042100 undergo significant assembly and integration processes to become part of the finished Solar Photovoltaic Modules. The hollow profiles of CTH 7604, does not attain the character of any article i.e. frame under CTH 7616.
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> ……….
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> 4.6.2 I find that chapter 7604 covers aluminium Bars, Rods and profiles. It is observed that the goods covered under CTH 76042100 are "Hollow profile" which comes in running length and is not cut to size. However, I find that in this case, the imported goods are cut to sizes profiles of Aluminium, which are assembled in tailor-made sizes to make it as frame of Aluminium which clearly show that these goods are not hollow profile but complete article in itself i.c. aluminium frame. Further, the video shown by the representative of the Noticee at the time of personal hearing also indicate that these Aluminium Frames are assembled by the Noticee for manufacture of Solar Photovoltaic Modules. Thus, it emerges that the imported goods are not the hollow profiles of the Aluminium Solar

> frames and thus, they are not covered under chapter 7604. I find that since the imported goods i.e. Aluminium Frames are a complete article which are covered under the 'other articles of Aluminium they accordingly merit classification under CTH 76169990.
>
> 4.7 My viewpoint also gets strength on the actions of the Noticee, who on their own volition, has already imported and cleared the subject goods under the classification of 76109090 under 38 Bills of Entry (80-line items) during the years from 2023 to 2024 and under the correct classification of 76169990 under 29 Bills of Entry during the years 2024.
>
> 4.7.1 Hence, in view of the above discussion, the 'Aluminium Solar Frame' is neither classifiable under CTII 76042100 nor under CTII 76109090 but is correctly classifiable under CTH 76169990.

22. We find that the learned Commissioner classifies the impugned goods under CTH 7616 for the reason that the imported goods are profiles of Aluminum cut to sizes, which are assembled in tailor-made sizes to make it as frame of Aluminum. He assumes that this would clearly show that these goods are not hollow profiles but complete article in itself i.e. aluminum frame. He finds that from the video shown by the representative of the Noticee at the time of personal hearing also indicates that these Aluminum Frames are assembled by the Noticee for manufacture of Solar Photovoltaic Modules and therefore, they are not covered under chapter 7604 and are complete articles of Aluminum classifiable under CTH 76169990. Learned Commissioner finds that his viewpoint also gets strength from the actions of the Noticee, who on their own volition, has already imported and cleared the subject goods under the classification of 76109090 under 38 Bills of Entry (80-line items)

during the years from 2023 to 2024 and under the correct classification of 76169990 under 29 Bills of Entry during the years 2024.

23. We find that the commissioner's findings are cryptic and not reasoned. His reliance on the classification made by assessee themselves in the past and on the point that the impugned profiles are cut to size do not seem to have a legal backing. It is a settled position of law that each bill of entry/ each assessment is a separate proceeding in itself. The principle of Res judicata is not applicable to matters involving taxation. Classification of goods cannot be based on the previous classification made by the appellant. It cannot be expected that the appellants continue to commit same error indefinitely. If the classification made by the appellant is accepted for the past period, it can as well be accepted for present period. Further, Learned Commissioner's findings are not based on any Test report or expert opinion. Though the learned Commissioner begins proceed to classify the goods in terms of Rule- 1 of the "General Rules for the interpretation of the Harmonized System (GIR), he does not discuss the principles and apply the same to the facts of the case and jumps to the conclusion that the impugned goods are articles of aluminium. He does not refer to any Section/ Chapter notes and not even terms of the headings.

24. We find that as submitted by the learned counsel for the appellants, the findings of the commissioner are contradictory. On the one hand Commissioner finds that the impugned goods are "cut to sizes profiles of Aluminium and on the other states that they are

assembled in tailor-made sizes to make it as frame of Aluminium. Commissioner does not give any finding on the condition in which the impugned goods are imported and presented for assessment. He proceeds to discuss the stage/ phase after the import, which is not relevant for classification. The impugned order would not even allege that the goods are imported in CKD condition. The impugned order doesn’t controvert the appellant’s assertion that the imported profiles are taken directly onto the module; sealed with silicon sealant; subjected to JB fixing, soldering, silicon potting on automatic assembly machines and are fixed by clamps to constitute the Solar PV Module and that there is no intermediate “frame” which comes into existence at all. The impugned order doesn’t give any reason as to how the impugned goods jump from CTH 7604 and suddenly become articles of aluminium falling under CTH 7616.

25. We find that the appellants submit that the classification of imported goods requires to be decided on the basis of the character, nature and physical attributes of the goods as presented for assessment and not their intended or possible use as attempted by the impugned order. On the other hand, Revenue argues that the impugned goods have attained the status of ‘articles of aluminium’ as they have been worked upon. We find that the rival entries are as follows.

Classification under CTH 7604 as per the Importer

7604		**ALUMINIUM BARS, RODS AND PROFILES**
7604 10	**-**	**Of aluminium, not alloyed :**
7604 10 10	- - -	Wire rods
7604 10 20	- - -	Bars and rods, other than wire rods
	- - -	**Profiles :**
7604 10 31	- - - -	Hollow
7604 10 39	- - - -	Other
	-	**Of aluminium alloys :**
7604 21 00	- -	Hollow profiles

Classification under CTH 7616 as per Revenue

7616		**OTHER ARTICLES OF ALUMINIUM**
7616 10 00	-	Nails, tacks, staples (other than those of heading 8305), screws, bolts, nuts, screw hooks, rivets, cotters, cotter-pins, washers and similar articles
	-	**Other :**
7616 91 00	- -	Cloth, grill, netting and fencing, of aluminium wire
7616 99	**- -**	**Other :**
7616 99 10	- - -	Expanded metal of aluminium and aluminium alloys
7616 99 20	- - -	Chains
7616 99 30	- - -	Bobbins
7616 99 90	- - -	Other

26. We find that one of the reasons argued by the revenue for classification under 7616 is that the appellant themselves declared the goods as “Aluminum Solar Frame”. To our understanding the words do not convey any meaning as there cannot exist any thing called solar frame. It can be a frame for solar energy panels, solar batteries etc. We find that description appearing in the commercial invoice, packing list or even the Bill of Entry is not conclusive for the purpose of determining the correct classification of the goods.

Classification is required to be determined on the basis of the objective characteristics, nature and physical attributes of the goods as presented for assessment, by applying the General Rules for Interpretation of the Import Tariff, the relevant Section Notes, Chapter Notes and the HSN Explanatory Notes. We find that the assessing authority or adjudicating authority is not bound by the nomenclature chosen by the supplier or the importer, and the true character of the goods must be ascertained independently of the description given in the commercial documents.

27. We find that Hon'ble Apex Court held in the case of Commissioner of Customs (Import) versus M/s Welkin Foods [(2026) 38 Centax 104 (S.C.)], that Simple incidental changes, which do not fundamentally alter the nature and character of the goods, do not suffice to remove a product from the grasp of its general class or the common or commercial meaning associated with that class. Hon'ble Apex Court further held that the character and nature of the product cannot be veiled behind terminology used in trade or commercial circles. The relevant paras are reproduced below:

> *"65. We wish to emphasise that the operative standard is one of 'substantial' transformation, rather than merely 'incidental' modification.* ***Simple incidental changes, which do not fundamentally alter the nature and character of the goods, do not suffice to remove a product from the grasp of its general class or the common or commercial meaning associated with that class.*** *While the determination of a substantial transformation is inherently fact-specific, as is evident from this court's ruling in Indian Tool Manufacturers (supra), the inquiry must focus on whether there are major*

differences in the design, utility, nature, character, and functions of the good [See Camelback Products, LLC v. United States, reported in 649 F.3d 1361].

……….

66. Based on the aforementioned case law, the following governing principles can be culled out with regard to the application of the common or trade parlance test while dealing with classification disputes under taxation laws:

f. The common or trade parlance test cannot be used to override the clear mandate of the statute. Specifically:

*i**. The test cannot be applied in a way that results in the reclassification of a good that is clearly identifiable under a particular heading according to the statute, simply because that good is marketed or called by a different name in trade or common parlance.***

ii. ***Conversely, the test cannot be used to challenge the classification of goods under a statutory heading if those goods retain the essential characteristics defined by that heading, even if they have a unique or specialised trade name.***

In other words, the character and nature of the product cannot be veiled behind a charade of terminology which is used to market the product or refer to it in common or commercial circles."

…….

72. In Dunlop India (supra), *this Court had declined to deny the classification of Vinyl Pyridine Latex as 'raw rubber' solely based on end use, as the same was irrelevant in the context of the tariff entry concerning 'raw rubber', i.e, the entry didn't refer to use or adaptation.* ***Therefore, the Court held that the use of an article for classification under customs law is only relevant if the entry referred to the "use or adaptation". If such a reference is absent from the entry, use cannot be regarded as a relevant factor for the purposes of classification. The Court also acknowledged that the 'taxable event' occurs when the goods are imported into the country, and consequently, what matters is the condition of the goods at the time of import.***

(Emphasis Supplied)

28. We find that Hon'ble Apex Court, in the case of Commissioner of Central Excise Vs Wockhardt Life Sciences Ltd (2012 (277) ELT 299 (SC)) referred to multiple other judgments and enumerated the following principles:

> *"31. However, there cannot be a static parameter for the correct classification of a commodity. This Court in the case of Indian Aluminium Cables Ltd. v. Union of India, 1985 (3) SCC 284 = 1985 (21) E.L.T. 3 (S.C.), has culled out this principle in the following words:*
>
> > ***"13. To sum up the true position, the process of manufacture of a product and the end use to which it is put, cannot necessarily be determinative of the classification of that product under a fiscal schedule like the Central Excise Tariff. What is more important is whether the broad description of the article fits in with the expression used in the Tariff****...."*
>
> *32. Moreover, the functional utility and predominant or primary usage of the commodity which is being classified must be taken into account, apart from the understanding in common parlance [see O.K. Play (India) Ltd. v. C.C.E., - 2005 (2) SCC 460 = 2005 (180) E.L.T. 300 (S.C.); Alpine Industries v. C.C.E., New Delhi – 1995 Supp. (3) SCC 1; Sujanil Chemo Industries v. C.C.E. & Customs - 2005 (4) SCC 189 = 2005 (181) E.L.T. 206 (S.C.); ICPA Health Products (P) Ltd. v. C.C.E. - 2004 (4) SCC 481 = 2004 (167) E.L.T. 20 (S.C.); Puma Ayurvedic Herbal (supra); Ishaan Research Lab (P) Ltd. (supra); C.C.E. v. Uni Products India Ltd., 2009 (9) SCC 295 = 2009 (241) E.L.T. 491 (S.C.)].*
>
> *33.* ***A commodity cannot be classified in a residuary entry, in the presence of a specific entry, even if such specific entry requires the product to be understood in the technical sense*** *[see Akbar Badruddin v. Collector of Customs, 1990 (2) SCC 203 = 1990 (47) E.L.T. 161 (S.C.); Commissioner of Customs v. G.C. Jain, 2011 (12) SCC 713 = 2011 (269) E.L.T. 307 (S.C.)]. A residuary entry can be taken refuge of only in the*

absence of a specific entry; that is to say, the latter will always prevail over the former [see C.C.E. v Jayant Oil Mills, 1989 (3) SCC 343 = 1989 (40) E.L.T. 287 (S.C.); H.P.L. Chemicals v. C.C.E, 2006 (5) SCC 208 = 2006 (197) E.L.T. 324 (S.C.); Western India Plywoods v. Collector of Customs, 2005 (12) SCC 731 = 2005 (188) E.L.T. 365 (S.C.); C.C.E. v. Carrier Aircon, 2006 (5) SCC 596 = 2006 (199) E.L.T. 577 (S.C.)]. In C.C.E. v. Carrier Aircon, 2006 (5) SCC 596 = 2006 (199) E.L.T. 577 (S.C.), this Court held:

> *"**14....There are a number of factors which have to be taken into consideration for determining the classification of a product. For the purposes of classification, the relevant factors inter alia are statutory fiscal entry, the basis character, function and use of the goods. When a commodity fall within a tariff entry by virtue of the purpose for which it is put to (sic. produced), the end use to which the product is put to, cannot determine the classification of that product."***

***34. In our view, as we have already stated, the combined factor that requires to be taken note of for the purpose of the classification of the goods are the composition, the product literature, the label, the character of the product and the user to which the product is put**……"*

(Emphasis Supplied)

29. The jurisprudence that evolved on the issue of classification prescribes the following principles.

- Classification is required to be determined on the basis of the condition in which the goods are presented for assessment; the objective, characteristics, nature and physical attributes of the goods, by applying the General Rules for Interpretation of the Import Tariff, the relevant Section Notes, Chapter Notes and the HSN Explanatory Notes.

- the 'taxable event' occurs when the goods are imported into the country, and consequently, what matters is the condition of the goods at the time of import.
- It is important see whether the broad description of the article fits in with the expression used in the Tariff.
- Simple incidental changes, which do not fundamentally alter the nature and character of the goods, will not take away a product from the group or class it belongs to as per common parlance or commercial meaning associated with that class.
- If the goods are clearly identifiable under a particular heading according to the statute, the classification need not be changed even if the goods are marketed or called by a different name in trade or common parlance.
- Unless the law requires, the use of an article or the adaptation of the article is not relevant for classification; if such a reference is absent from the entry, use cannot be regarded as a relevant factor for the purposes of classification.
- If there is a specific entry, a commodity cannot be classified in a residuary entry, even if such specific entry requires the product to be understood in the technical sense.
- For the purposes of classification, the relevant factors inter alia are statutory entry, the basis character, function and use of the goods.

30. The appellants classified the impugned goods as Aluminium profiles. As far as profiles are concerned the entry in the Tariff is very clear and there is no doubt whatsoever that profiles are

classifiable under CTH 76.04 as seen above. A look at the internet shows that standard industrial aluminium profiles (extrusion bars) are manufactured in stock lengths of **6 meters (approx. 20 feet or 5.8–6 meters for shipping)**, though suppliers routinely cut them down to 3-meter segments, custom lengths, or small project sizes. A visit to the website of yajialuminum.com shows that [https://yajialuminum.com/size-of-aluminum-profiles-complete guide/#elementor - toc heading-anchor-0}

Standard Lengths of Aluminium Profiles

Factory-produced aluminium profiles are generally extruded in 5.8–6.0 meters length bars. However, distributors often supply pre-cut lengths for convenience:

500 mm

1,000 mm

1,500 mm

2,000 mm

3,000 mm

Shorter lengths simplify handling and reduce shipping costs, while longer bars are preferred for machining and bulk assembly lines.

It is seen that profiles are known as profiles even if they are cut to smaller sizes in trade parlance. We find that the appellant imports the impugned goods not in running lengths but cut to three shorter lengths, namely 7.8 feet, 7.47 feet and 3.7 feet, each cut from the standard 20-foot extrusion. Now the question arises as to whether the profiles cut in to shorter length would cease to be profiles. It is pertinent to note that there is no reference to the length of the profile in Tariff and HSN explanatory Notes. It is only the trade parlance that says profiles are generally of running lengths of 20 feet. However, as seen above, cut lengths of profiles are also considered as profiles. Therefore, the reasoning given by commissioner that as the profiles are cut, they become articles.

31. Section Note 9(b) to Section 15 (which includes chapter 74 &76) defines "profiles" as follows:

> *(b) Profiles*
>
> *Rolled, extruded, drawn, forged or formed products, coiled or not, of a <u>uniform cross-section along their whole length</u>, <u>which do not conform to any of the definitions of bars, rods, wire, plates, sheets, strip, foil, tubes or pipes.</u> The expression also covers cast or sintered products, of the same forms, which have been subsequently worked after production (otherwise than by simple trimming or de-scaling), <u>provided that they have not thereby assumed the character of articles or products of other headings.</u>*
>
> *(Emphasis Supplied)*

32. Learned counsel for the appellants submit that cutting a profile to a shorter length is the paradigm of "working" that the Explanatory Note to Heading 74.07 (applicable to Heading 76.04) expressly permits without change of classification: a profile cut to size remains a profile. We find that suppliers of profiles cut the profiles as per the size required by the customers while dispatching the same. We find as per the Section Note as above, the expression 'profiles' also covers cast or sintered products, of the same forms,

which have been subsequently worked after production (otherwise than by simple trimming or de-scaling). This section note which is applicable to entries under CTH 76.04, means to say that that even if the profiles are worked upon after manufacture, they are classifiable under 'Profiles'. We find that the impugned order though records that the imported goods are "cut to sizes profiles of Aluminum'', proceeds to conclude that they are frames assembled in tailor-made sizes to make it as frame of Aluminum. The appellant submits that there is no intermediate stage like frame; the imported profiles are taken directly onto the module and sealed with silicon sealant, subjected to JB fixing and soldering and JB silicon potting on automatic assembly machines, and fixed by clamps to constitute the Solar PV Module. This claim is not controverted by the adjudicating authority. The commissioner has not adduced any evidence to establish that the imported goods are frames.

33. It is well established that goods are to be classified in the condition in which they are presented, in accordance with Rule 2 of the General Rules for Interpretation. Subsequent use or the purpose for which the importer intends to put the goods does not determine classification unless the tariff entry itself is framed with reference to use. Consequently, the mere fact that the invoice describes the goods as "Aluminium solar Frames" is not relevant. What is material is whether the goods, as imported, answer the definition of "aluminium profiles" under Chapter 76. Heading 7604 read with the Section Note 9 (b) extracted above, is a specific heading covering

aluminium profiles of uniform cross-section that have not assumed the character of articles or products of other headings.

34. We find that Heading 7616 is a residual heading covering other articles of aluminium that are not more specifically covered elsewhere in Chapter 76. The decisive test is therefore whether the imported aluminium profiles or frames have, by reason of further working, assumed the character of finished articles or parts that fall outside the scope of “profiles”. It is not the case of the department that (i). goods imported by the appellant have lost the characteristics of profiles of aluminium (ii). They have not retained a uniform cross-section along their whole length (iii). The working like cutting and notching converted them into identifiable finished articles of another heading and that profiles are not traded in cut to size lengths. Moreover, we find that no evidence has been brought on record by commissioner to conclude that the impugned goods are frames. Further, the appellant has submitted that the so-called frames do not come into existence when the impugned goods are used in the manufacture of PV Modules, there is no evidence to contradict this claim. Learned Commissioner appears to have decided the classification just because of the description in the invoices. Therefore, we are of the considered opinion that under these circumstances, the goods continue to fall under CTH 7604 in view of the terms, description of the Tariff entries and the Section Note 9(b) to Section 15.

35. We find that the above position is supported by the decision in Hanon Climate Systems India Pvt Ltd. Versus Commissioner of

Customs ICD Patparganj and Other ICDs, Delhi (2026 (1) TMI 1180 - CESTAT NEW DELHI). The Principal Bench of the Tribunal held that imported aluminium tubes, aluminium pipes and aluminium profiles are classifiable under Customs Tariff Headings 7604, 7608 and 7616, and not under Heading 8708 (parts and accessories of motor vehicles), because the goods as imported are raw inputs of aluminium which are subjected to various processes by the appellant before they can be used in manufacturing the ECM, charge air cooler or condensers. The bench held that the goods are raw materials which have wide application for manufacturing various types of products and are not limited to manufacture of radiators, charge air coolers or ECM. Hence, they cannot be considered as suitable for use solely and principally with motor vehicles. The relevant paragraph is as below.

> *"32. In the present case, the goods as imported are raw inputs of aluminium which are subjected to various processes by the appellant before they can be used in manufacturing the ECM, charge air cooler or condensers. The goods are raw materials which have wide application for manufacturing various types of products and are not limited to manufacture of radiators, charge air coolers or ECM. Hence, they cannot be considered as suitable for use solely and principally with motor vehicles. The goods are also specifically covered under CTH 7604, CTH 7608 and CTH 7616. They can be classified under Section XVII only if they are not more specifically covered elsewhere.* ***Merely because the appellant used the said pipes, tubes and profiles in manufacturing parts of automobiles, it cannot be concluded that***

> ***the tubes, pipes and profiles are for sole or principal use with motor vehicles."***
>
> *(Emphasis Supplied)*

36. In the present case, the impugned goods are aluminium extrusions or profiles of uniform cross-section that have not been converted into finished, ready-to-use frames having the essential character of articles which necessitates the classification under Heading 7616, classification under CTH 7604 will be more appropriate. Furthermore, Rule 3(a) of the General Rules of Interpretation, mandates that the heading which provides the most specific description shall be preferred to headings providing a more general description. Heading 7604 specifically covers aluminium bars, rods and profiles and is therefore a specific description. In contrast, heading 7616, which deals with "other articles of aluminium", is a residual and general heading intended to cover only those aluminium products that do not fall under any of the more specific headings of Chapter 76. It is established that the goods retain the character of profiles within the meaning of CTH 7604 and have not assumed the character of articles of other headings. Therefore, in terms of Rule 3(a), more specific Heading 7604 needs to be preferred over the residual Heading 7616. The residual heading 7616 99 cannot be invoked merely because the goods are intended for use as solar panel frames or because they have been so described in the invoice. Therefore, proper classification of the impugned goods would be under CTI 76042100 as claimed by the appellant.

37. Further, the revenue intends to classify the impugned goods under articles of aluminium. It can be seen from the tariff entries cited above, for that. We find that the items which can be classified as articles of aluminium as per Indian Customs Tariff are nails, tacks, staples, cloth, grill, chains, bobbins etc. These items do appear to have an independent existence and identifiable use/utility per se. The CTI 76169990 refers to some articles. There is no sub classification for parts under CTH 7616. The impugned goods cannot be categorized under CTH 7616 by the principle of Ejusdem generis. The principle means same kind or nature; it is a rule which states that when a law lists specific words or items followed by general words, those general words apply only to things of the same class, kind, or category as the specific items. In the instant case, it is not the case of the revenue either that the impugned goods are complete even to be called articles of aluminium as they do not have independent utility. They cannot be classified along with articles of aluminium. At the most they can be parts of something. Interestingly, CTH 7616 has no entry for parts of articles. Even if one stretches the imagination too far, the profiles imported by the appellant can be called parts of frames which could fall under CTH 7610, However, the issue not being before us, we are not inclined to discuss the same.

38. Further the appellant relies on US Customs Rulings in N326606 (06.07.2022), NY N337825 (16.02.2024) and NY N188057 (01.11.2011), in support of their arguments. Revenue relies on U.S. Customs Ruling NY N139353 dated 13.06.2011 and N 305694 dated

30-08-2019. We find that in view of our discussion as above; the provisions of Indian Customs Tariff Act are clear and helpful in coming at a definitive conclusion as regards the classification of impugned good and there is no doubt in this regard. Thus, reference to US Rulings is not required in the facts and circumstances of the case. Moreover, we find that we are not bound by US Customs Rulings. We find that reliance by the appellants on the Order-in-Original No. MUN-CUSTM-OOO-COM-045-24-25, dated 28.02.2025, passed by Mundra Customs and the reliance placed by the revenue, on the Final Order No 20497-20499/2019, dated 28.06.2019, passed by Bangalore Bench of CESTAT, in the case of D&M Building Product Pvt Ltd, are not relevant in the facts and circumstances of the case before us.

39. Having decided the issue of classification in favour of the appellants; we now turn our attention to the availability of exemption under Serial No. 39 of Notification No. 24/2005-Cus dated 01.03.2005, under the claim that the final product manufactured by them was covered by Sl. No. 23 ibid. We find that Learned Commissioner finds in this regard as follows.

> *4.9 I find that the exemption given under S. No. 23 of the notification, supra provides exemption from duty to the goods falling under heading 8541 and goods used for manufacture thereof. However, in the present case. I have already determined that the product imported by the Noticee are Aluminium frames falling under CTH 76169990. I find that the impugned article is a complete and distinct article having general use and can be used for manufacture of multiple items. Although these articles are being used by the Noticee in the manufacture of Solar Photovoltaic Modules falling under CTH 8541, but this*

does not imply that these Aluminium Frames cannot be used to manufacture any other article except goods falling under CTH 8541. Thus, the impugned articles also have general use and can be used for manufacture of other goods and therefore are not exclusively covered under the S. No. 23 of the notification, supra. It is a settled position of law that notification should be read and construed strictly. In support of above, reliance is placed upon five judges Constitution Bench of the Hon'ble Supreme Court of India judgment dated July 30, 2018 in the matter of Commissioner of Customs (Import). Mumbai Vs. M/s Dilip Kumar and Company & Ors in Civil Appeal No. 3327 of 2007, wherein it was held that "When there is ambiguity in exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject/assessee and it must be interpreted in favour of the revenue". As such, the Noticee are not eligible for concessional benefit under Notification No. 024/2005 dated 01.03.2005.

4.10 In view of above findings. I hold that the imported goods i.e. the 'Aluminium Solar Frame' is correctly classifiable under CCTH 76169990. Further, the Noticee are not eligible for concessional benefit under Notification No. 024/2005 dated 01.03.2005. BCD rate (@ 10% under CTH 76169990 is applicable on these imported goods.

40. We find that learned Commissioner seeks to disallow the benefit of the Notification for the reason that the impugned article is a complete and distinct article having general use and can be used for manufacture of multiple items; although these articles are being used by the Noticee in the manufacture of Solar Photovoltaic Modules falling under CTH 8541, but this does not imply that these Aluminium Frames cannot be used to manufacture any other article except goods falling under CTH 8541. We find that the Learned Commissioner uses an inverted logic to deny the benefit of the exemption. He concludes without any evidence that the impugned

goods are articles and have general use; they can be used for manufacture of other goods and therefore, are not exclusively covered under the S. No. 23 of the Notification. We find that the argument is neither legal nor logical. Legally speaking the exemption is available if the goods are intended to be used in the manufacture of goods listed under the said Notification. The exemption cannot be denied on the basis of possible use of the impugned goods. Moreover, the goods have been imported following the procedure laid down under Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 and the appellant has been submitting the end-use certificates issued by jurisdictional GST authorities. It is not the case of the Commissioner that such certificates have not been issued by the authorities or have been obtained by fraud etc. Revenue cannot disbelieve and discard the certificate given by the other wing of their own department. No reasons have been adduced to say as to why the said certificates are not reliable. Under such circumstances, denial of benefit is not tenable. Further, we find that for determining the classification, learned commissioner avers that the frames are used in Solar PV module and when it comes to exemption, commissioner finds that the said articles have multiple uses, which is hypothetical. Moreover, we find that the exemption was available irrespective of the classification under Chapter 76 as the condition of end use is satisfied. Thus, we find that the exemption claimed by the appellant is admissible to them during the currency of the Notification i.e. up to 31.03.2022 as per the amendment in the Notification

No.24/2005-Cus by Notification No.15/2022 dated 01.02.2022. The amendment to the Notification is effective from 01.04.2022; therefore, the appellants are eligible for the exemption for the bills of entry filed on or before 31.03.2022.

41. For all the aforesaid reasons, we are of the considered opinion that the issues of Classification of impugned goods and the availability of exemption are in favour of the appellant on merits. As the demand itself does not survive, the question of interest, penalty and redemption fine does not arise. Further, we find that it is not necessary to go into the issue of limitation.

42. Accordingly, we set aside the impugned order and allow the appeal with consequential relief, if any, as per law in the following terms.

(i). The impugned goods are classifiable under CTI 76042100

(ii). The appellant is eligible for the exemption as per Notification No. 24/2005-Cus dated 01.03.2005, during the currency of the Notification i.e. before 01.04.2022.

(iii) The appellant shall be eligible for consequential relief, in any, as per law.

(Order pronounced in the open court on 20/08/2026)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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