CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. III

Customs Appeal No. 42412 of 2018

(Arising out of Order-in-Appeal No.213/2015 dated 27.02.2015 passed by Commissioner of Customs (Appeals-II), 60, Rajaji Salai, Custom House, Chennai 600 001.)

M/s. A. K. Paper Products Pvt Ltd., ... Appellant
3-1-763, 'A.K. HOUSE'
Ambepet Road, Kacheguda,
Hyderabad -500 027.

VERSUS

The Commissioner of Customs ... Respondent
Chennai II Commissionerate,
Custom House, 60, Rajaji Salai,
Chennai 600 001.

APPEARANCE :

Shri Hari Radhakrishnan, Advocate for the Appellant
Shri Anoop Singh, Authorized Representative
for the Respondent

CORAM :

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)

FINAL ORDER No.41056/2026

DATE OF HEARING : 15.06.2026
DATE OF DECISION :25.09.2026

Per: Shri P. Dinesha

This Appeal filed by M/s. A.K. Paper Products Pvt. Ltd. – hereinafter referred to as the Appellant - is directed against the order of Commissioner of Customs (Appeals-II), Chennai dated 27.02.2015.

2. Undisputed facts as could be gathered from the Show Cause Notice, Order-in-Original, Order-in-Appeal and the other relevant documents placed on record are that the Appellant was a regular importer of 'Carbon Less Paper Black Image' classifiable under Customs Tariff Heading 4809; the present dispute revolves around Bills of Entry Nos.(i) 6445028 dt. 03.04.2012 (ii) 8072900 dt. 28.09.2012 and (iii) 7141127 dt. 18.06.2012 and the Appellant had also claimed the benefit of Sl.No.553 of the Notification No.46/2011-Cus. dated 01.06.2011 as per which the claimant was eligible for a concessional rate of Basic Customs Duty (BCD) for all the goods classifiable under Headings 480830 to 480990.

3. Entertaining the doubt that the Appellant was not eligible for the concessional benefit of BCD as claimed

above, a Show Cause Notice dt. 27.03.2013 came to be issued *inter alia* proposing to deny the exemption benefit availed by the Appellant. The reason for the above was also indicated in the SCN that as on the date of filing the Bill of Entry under dispute, the benefit of concessional BCD was not available to goods in question since the Notification benefit of which was claimed stood amended *vide* Notification No.127/2011-Cus. dt. 30.12.2011.

4. It appears that the Appellant filed its explanation to the above SCN *inter alia* contending that the non-inclusion of the goods in question in the amended Notification was an 'error committed by the Government of India' [in omitting the Heading 480920 and 480990]. It was also urged by the Appellant that the above benefit was rolled back *vide* subsequent Notification No.35/2013-Customs dt. 18.07.2013 and that the same could be given retrospective effect. The Adjudicating Authority however, not heeding to the above pleas *vide* Order-in-Original No. 03/2014 dated 26.11.2014 confirmed the proposals as made in the SCN. Aggrieved by the same, it appears that the Appellant preferred its first Appeal before the Commissioner of Customs (Appeals-II), Chennai and the

Commissioner (Appeals-II) *vide* impugned Order-in-Appeal No.213/2015 dated 27.02.2015 though having observed *inter alia* that '*neither the lower authority nor this appellate forum has got powers to interpret notification beyond the written letter'* and also having observed that the subsequent Notification No.35/2013 (*supra*) was only clarification in nature having retrospective operation cannot be accepted since the same is very much clear as to the date of its operation however, directed the Adjudicating to seek clarification from Board. The said order has been assailed in this Appeal.

5. Shri Hari Radhakrishnan, Ld. Advocate appearing for the Appellant would submit that the impugned order has been passed without correctly appreciating the legal submissions made by the Appellant, that the Appellant had specifically contended that the exemption provided in Sl.No.553 of Notification No.46 (*supra*) was accidently omitted by the Govt. of India. He would also contend, by referring to the Schedule of Trade Commitments (Annex-1) to the Trade in Goods Agreement under the Framework Agreement on Comprehensive Economic

Cooperation between the Republic of India and Association of Southeast Asian Nations, that *vide* Sl.No.5122 it is clearly stated that the obligation to provide concessional rate of duty for goods classifiable to CTH 480920 and 480990 is continuing in nature till 31.12.2019. He would also take us through various documents obtained under R.T.I Act, 2005 from the Ministry of Finance and the notings thereon in the respective file which established the fact the omission to include goods under CTH 480920 and 480990 very much within the purview of Exemption Notification was an inadvertent error.

6. Ld. Advocate would further place reliance on the following decisions :

(i) Vividh Print Media Pvt. Ltd. Vs CC (Imports), Chennai [Final Order No.40028/2025 dated 07.01.2025]

(ii) W.P.I.L. Ltd. Vs CCE Meerut [2005 (181) ELT 359 (SC)]

(ii) Ralson (India) Ltd. Vs CCE Chandigarh [2015 (310) ELT 234 (SC)]

7. *Per contra,* Shri Anoop Singh, Ld. Departmental Representative would support the findings of lower authorities. He would also contend that the legislature in

its wisdom has issued Notifications specifying the effect of such Notifications very clearly, legislature in its wisdom has also wherever required, specifically records the operation of such Notifications either prospectively or retrospectively. He would thus contend that it was a conscious decision of the legislature when Notification No.35/2013 (*supra*) was introduced to roll back the exemption from the date of the said Notification, prospectively and hence, the documents obtained under R.T.I which are relied upon are of no relevance as long as the effect of Notification stands undisturbed. He would also rely on the following decisions :

(i) **Commissioner of Income Tax (Central)-I New Delhi Vs Vatika Township Private Ltd**.-Para39 [2014 (9) TMI 576 – Supreme Court (LB)]

(ii) **Vijay Vs Union of India & Others** [2023 (11) TMI 1272 – Supreme Court]

(iii) **Govind Das Vs ITO** [(1976) 1 SCC 906]

(iv) **State of Madhya Pradesh Vs Tikamdas** [(1975) 2 SCC 100]

(v) **National Agricultural Coop. Mktg. Federation of India Ltd. Vs UOI** [(2003) 5 SCC 23]

7.1 Ld. D.R would further draw our attention to the decision of Hon'ble Supreme Court in the case of **Chief**

Commissioner of Central Goods & Ors. Vs Safari Retreats Private Ltd. [2024 (10) TMI 286-SC = 2024 (90) G.S.T.L 3 (SC)] wherein the Hon'ble Apex Court has re-affirmed the rules regarding the interpretation of taxing statutes. The relevant portion relied upon by the Ld. Departmental representative is reproduced below :

> **"25.** Regarding the interpretation of taxation statutes, the parties have relied on several decisions. The law laid down on this aspect is fairly well-settled. The principles governing the interpretation of the taxation statutes can be summarised as follows :
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> (a) A taxing statute must be read as it is with no additions and no subtractions on the grounds of legislative intendment or otherwise;
>
> (b) If the language of a taxing provision is plain, the consequence of giving effect to it may lead to some absurd result is not a factor to be considered when interpreting the provisions. It is for the legislature to step in and remove the absurdity;
>
> (c) While dealing with a taxing provision, the principle of strict interpretation should be applied;
>
> … …. ….
>
> (f) A taxing provision cannot be interpreted on any presumption or assumption;
>
> … …. ….
>
> (k) It is not a function of the Court in the fiscal arena to compel the Parliament to go further and do more;"

7.2 He would also invite our attention to the following findings of the Hon'ble Apex Court in the case of **CIT New Delhi Vs Vatika Township Private Ltd.** (*supra*) as under :

> "39. (d) …….These become epigraphic words, when seen in contradistinction to other amendments specifically stating those to be clarificatory or retrospectively depicting clear intention of the legislature. It can be seen from the same notes that few other amendments in the Income Tax Act were made by the same Finance Act specifically making those amendments retrospectively. For example, clause 40 seeks to amend S.92F. Clause iii (a) of S.92F is amended "so as to clarify that the activities mentioned in the said clause include the carrying out of any work in pursuance of a contract." This amendment takes effect retrospectively from 01.04.2002. Various other amendments also take place retrospectively. The Notes on Clauses show that the legislature is fully aware of 3 concepts:
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> (i) prospective amendment with effect from a fixed date;
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> (ii) retrospective amendment with effect from a fixed anterior date; and
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> (iii) clarificatory amendments which are retrospective in nature.
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> Thus, it was a conscious decision of the legislature, even when the legislature knew the implication thereof and took note of the reasons which led to the insertion of the proviso, that the amendment is to operate prospectively. Learned counsel appearing for the assessees sagaciously contrasted the aforesaid stipulation while effecting amendment in Section 113 of the Act, with various other provisions not only in the same Finance Act but Finance Acts pertaining to other years where the legislature specifically provided such amendment to be either retrospective or clarificatory. In so far as amendment to Section 113 is concerned, there is no such language used and on the contrary, specific stipulation is added making the provision effective from 1st June, 2002."

7.3 Further, he would refer to the following observations of the Apex Court in the case of **Vijay Vs UOI** (*supra*) :

> "22. A Two-Judge bench of this Court 2023:INSC:539 while culling out the principles on the role of a clarification/explanation to a statute and how the same is identified and distinguished from a substantive amendment, observed that only because a provision is described as a clarification or explanation, the Court is not bound by the said statement, but must analyze the nature of the amendment so as to conclude whether it is, indeed, a clarificatory or declaratory provision or whether it is a substantive amendment which is intended to change the law and which would apply prospectively.
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> 23. The mere description of a provision as an "Explanation " or "clarification" does not determine its actual effect. On this aspect, this Court in Virtual Soft Systems Ltd. v. Commissioner of Income Tax, Delhi (2007) 9 SCC 665 observed as follows:
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> > Even if the statute does contain a statement to the effect that the amendment is declaratory or clarificatory, that is not the end of the matter. The Court will not regard itself as being bound by the said statement in the statute itself, but will proceed to analyse the nature of the amendment and then conclude whether it is in reality a clarificatory or declaratory provision or whether it is an amendment which is intended to change the law and which applies to future periods.
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> 24. In Govind Das v. ITO (1976) 1 SCC 906, this Court has observed that:
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> > 11. Now it is a well-settled Rule of interpretation hallowed by time and sanctified by judicial decisions that, unless the terms of a statute expressly so provide or necessarily require it, retrospective operation should not be given to a statute so as to take away or impair an existing right or create a new obligation or impose a new liability otherwise than as regards matters of procedure. The general rule, as stated by

> Halsbury in Vol. 36 of the Laws of England (3rd Edn.) and reiterated in several decisions of this Court as well as English courts, is that
>
> all statutes other than those which are merely declaratory or which relate only to matters of procedure or of evidence are prima facie prospective
>
> and If the enactment is expressed in language which is fairly capable of either interpretation, it ought to be construed as prospective only."

Ld. D.R would thus pray that the conclusion drawn by the lower authorities is in order and hence, the same may be upheld.

8. We have heard the rival contentions and perused the documents and judgements relied upon carefully. On hearing both sides, the following issues arise for our consideration :

(i) Whether the Appellant is entitled for the concessional benefit of BCD in terms of Notification No.46/2011-Cus. (*supra*) ?

(ii) Whether the Notification No.35/2013-Cus. (*supra*) was to be interpreted as having retrospective operations as contended by the Appellant ? and

(iii) Whether Revenue is justified in invoking the extended period of limitation ?

9. In so far as the first issue regarding benefit of Notification No.46/2011 (*supra*) is concerned, we find that as on the dates of filing Bills of Entry [03.04.2012, 28.09.2012 & 18.06.2012] in dispute, the same was not in operation and only Notification No.127/2011-Cus. dt. 30.12.2011 was holding the field. It is clear from the said Notification that the said Notification provided effective rate of duty for Tariff Heading 470790 only and clearly Heading 48099000 is not figuring in the said Notification. That means, any goods imported, which are falling under CTH 48099000, are not eligible for exemption. Further, the above Notification stood further amended by Notification No.64/2012-Cus. dt. 31.12.2012 which also did not carry the entry in respect of CTH 4809, from which the intention of the legislature becomes clear: if it was an error as stoutly contended, then the same would have been rectified in the subsequent Notification, which is not the case. It is only the latest Notification i.e. 35/2013 (*supra*) whereby the legislature has clearly indicated that goods falling under Headings 4809, 480920 and 480990 are eligible for the benefit. The same is not given retrospective effect.

10.1 In the case of **Vividh Print Media** (*supra*), we find that the Government had in fact accepted that there was a mistake. But, same is not the situation here, in the case on hand. Documents filed at page Nos.49, 51 & 54 in the present Appeal do not pertain to the present Appellant, rather they are specifically issued to the Assessee named therein and hence, the true purport of the Notification cannot be extended universally.

10.2 In the case of **Ralson (India) Ltd.** (*supra*), the Hon'ble Apex Court has at paragraph 4 recorded the mistake realized by the Government and the remedial step taken thereon which was held to be clarificatory in nature, to be applied retrospectively.

10.3 In the case of **W.P.I.L. Ltd**. (*supra*), the Hon'ble Supreme Court has again observed that when the omission was brought to the notice of the Government and after being satisfied, the amended Notification No.95/94-C.E dt. 25.04.1994 was issued correcting the mistake, which is not the case here.

11. The above clearly indicates that the facts of the present case are different in as much as there is no positive admission of any mistake, in black and white, by

the Government, it may be a different matter if the Government has acknowledged the grievance of the Appellant in any manner. In view of this, the decisions relied upon by the Appellant are not applicable.

12. We find that the ratio laid down by the Hon'ble Apex Court in the cases of **Safari Retreats Private Ltd. & Ors.** (*supra*), **Vatika Township Pvt. Ltd.** (*supra*) and **Vijay** (*supra*) throw sufficient light in guiding us to treat the prospective or retrospective operation of a Notification. Elsewhere in this order, we have reproduced the relevant paragraphs of the findings of the Supreme Court in **Safari Retreats Private Ltd. & Ors.** (*supra*), **Vatika Township Pvt. Ltd.** (*supra*) and **Vijay** (*supra*) and applying the same, we have no option but to hold that the effect of Notification No.35/2013 (*supra*) could only be prospective in nature, applicable from the date of its Gazette Notification. The above discussion also covers both issues (i) & (ii) and hence, the issues (i) & (ii) are decided against the Appellant.

13. The other contention with regard to invoking the extended period of limitation, we find that as on the date of filing of the Bills of Entry Notification No.46/2011

(*supra*) had ceased to exist and hence, the claiming of benefit flowing from a *non-est* Notification clearly amounts to claiming of a benefit with an ulterior motive and hence, Revenue was justified in invoking the extended period of limitation. In the case of **Lally Automobiles Pvt. Ltd. Vs Commissioner (Adjudication), C.Ex.** [2018 (17) G.S.T.L. 422 (Del.)], the Hon'ble Delhi High Court in the context of Rule 6 (2) of Cenvat Credit Rules has held that the Assessee therein was aware of its activities which was well within the Assessee's knowledge and hence, the High Court held that the Revenue was justified in invoking the extended period of limitation. The said view was thereafter approved by the Hon'ble Supreme Court as reported in 2019 (24) G.S.T.L. J115 (SC)]. Here in the case on hand, the Appellant cannot plead ignorance as to the non-availability of Notification No.46/2011-Cus. since, as observed by us elsewhere in this order Bills of Entry were filed in 2012. The Appellant is presumed to be aware that the Notification, the benefit of which was claimed by them stood amended. Therefore, we do not find any case made out by the Appellant for interfering with the

impugned order and hence, Appeal is required to be dismissed.

14. Resultantly, the Appeal is dismissed.

(Order pronounced in open court on 25.09.2026)

sd/-	sd/-
(M. AJIT KUMAR)	**(P. DINESHA)**
Member (Technical)	Member (Judicial)

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