CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 85502 of 2025

(Arising out of Order-in-Appeal No. 1281 to 1385 (Gr. III)/2024 (JNCH)/Appeals dated 22.10.2024 passed by Commissioner of Customs (Appeals), Mumbai-II)

M/s TGI International **.... Appellant**
145 B, Mittal Court, Nariman Point,
Mumbai, Maharashtra – 400 021.

Versus

Commissioner of Customs, Nhava Sheva-III **.... Respondent**
JNPT, Custom House, Nhava Sheva,
Raigad, Maharashtra – 400 707.

WITH

C/85503/2025	**C/85504/2025**	**C/85505/2025**	**C/85506/2025**
C/85507/2025	**C/85508/2025**	**C/85509/2025**	**C/85510/2025**
C/85511/2025	**C/85512/2025**	**C/85513/2025**	**C/85514/2025**
C/85515/2025	**C/85516/2025**	**C/85517/2025**	**C/85518/2025**
C/85519/2025	**C/85520/2025**	**C/85521/2025**	**C/85522/2025**
C/85523/2025	**C/85524/2025**	**C/85525/2025**	**C/85526/2025**
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C/85559/2025	**C/85560/2025**	**C/85561/2025**	**C/85562/2025**
C/85563/2025	**C/85564/2025**	**C/85565/2025**	**C/85566/2025**
C/85567/2025	**C/85568/2025**	**C/85569/2025**	**C/85570/2025**
C/85571/2025	**C/85572/2025**	**C/85573/2025**	**C/85574/2025**
C/85575/2025	**C/85576/2025**	**C/85577/2025**	**C/85578/2025**
C/85579/2025	**C/85580/2025**	**C/85581/2025**	**C/85582/2025**
C/85583/2025	**C/85584/2025**	**C/85585/2025**	**C/85586/2025**
C/85587/2025	**C/85588/2025**	**C/85589/2025**	**C/85590/2025**
C/85591/2025	**C/85592/2025**	**C/85593/2025**	**C/85594/2025**
C/85595/2025	**C/85596/2025**	**C/85597/2025**	**C/85598/2025**
C/85599/2025	**C/85600/2025**	**C/85601/2025**	**C/85602/2025**
C/85603/2025	**C/85604/2025**	**C/85605/2025**	**C/85606/2025**

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Raigad, Maharashtra – 400 707.

Appearance:

Shri Stebin Mathew a/w Ms. Dishya Pandey, Advocates for the Appellant
Shri Mahesh Patil, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (JUDICIAL)

FINAL ORDER NO. A/86240-86344/2026

Date of Hearing: 07.10.2026
Date of Decision: 15.10.2026

Per: S.K. MOHANTY

Brief facts of the case, leading to these appeals, are summarized herein below:

1.2 The appellant is engaged in the business of trading of fabrics, which it used to import from outside the country. During the disputed period, the appellant had filed 105 nos. of Bills of Entry (B/Es) for importation of 'polyester viscose fabrics', by claiming the benefit of exemption from payment of Basic Customs Duty (BCD) in terms of Notification No. 19/2015-Customs dated 01.04.2015. The said notification grants exemption in respect of the materials imported into India against valid 'Duty Free Import Authorisation' (DFIA) issued by the Regional Authority of the Directorate General of Foreign Trade (DGFT). Availability of the exemption from payment of BCD as per the said notification was subjected to the conditions that the said Authorisation is produced before the proper officer of Customs at the time of clearance for debit; and that Standard Input Output Norms (SION) number, description, quantity and Free On Board (FOB) value of resultant product exported and the shipping bill number(s) and date(s) are endorsed on the said authorisation.

1.3 Though these B/Es were self-assessed by the appellant, in claiming the benefit of exemption from payment of whole of the BCD as per notification dated 01.04.2015, but while computing the Integrated Goods and Services Tax (IGST) at @5% on the transaction value, the Indian Customs EDI system (ICES) had captured the BCD amount at the tariff rate, which was added to arrive at the IGST payable on the imported goods. Since the BCD amount as per the said notification dated 01.04.2015 was 'zero', the appellant was of the view that it had paid

excess IGST. Since the ICES did not permit any amendment/changes to be made in the B/Es, the appellant had paid the full IGST as computed by the system and filed the appeals against the assessed B/Es at the higher rate of IGST, before the Commissioner (Appeals) in terms of Section 128 of the Act of 1962.

1.4 The appeals filed by the appellant were disposed of by the learned Commissioner of Customs (Appeals), Mumbai-II vide the Order-in-Appeal Nos. 1281 to 1385 (Gr. III)/2024(JNCH)/Appeals dated 22.10.2024 (for short, referred to, as "the impugned order"). In the said order, the appeals of the appellant were rejected. In support of rejection of the appeals, the impugned order has *inter alia*, held that any duty of customs chargeable on the goods under Section 12 of the Act of 1962 has to be added to the transaction value for the purpose of computation of IGST; and that as per the DFIA scheme read with notification dated 01.04.2015, the duty of customs leviable was debited by the department in the Authorisation, instead of making payment in cash by the appellant.

1.5 Feeling aggrieved with the impugned order dated 22.10.2024, the appellant has preferred these appeals before the Tribunal.

2. Learned Advocate appearing for the appellant submitted that the computation of IGST leviable on the imported goods covered by the disputed B/Es is not sustainable inasmuch as the BCD as per the notification dated 01.04.2015 was not admittedly chargeable on the imported goods and thus, adding the BCD amount notionally to the assessable value for the purpose of computing IGST is contrary to the statutory provisions. He further submitted that Section 3(8) of the Customs Tariff Act, 1975 makes the position amply clear that while arriving at the value of the imported goods for the purpose of computing IGST, the duty of customs chargeable on the said goods is alone to be applied and not the generally applicable duties/tariff rate for the purpose of computation of IGST. Learned Advocate also submitted that the finding recorded in the impugned order at paragraph 6.3 is factually incorrect inasmuch as the BCD payable as per the DFIA license was 'zero' and as such, the appellant had never discharged any duty liability by debiting such amount in the DFIA authorisation. To support his stand that the issue arising out of the present dispute is no more *res integra*, learned Advocate has placed reliance on the orders passed by the Co-

ordinate Benches of the Tribunal in the cases of *Morarjee Brembana Ltd. Vs. Commissioner of C. Ex., Nagpur* – 2003 (154) E.L.T. 500 (Tri. – Mumbai) and *Parasrampuria International Vs. Commissioner of C.Ex., Indore* – 2004 (173) E.L.T. 142 (Tri. – Del.).

3. On the other hand, learned AR appearing for the Revenue reiterated the findings recorded in the impugned order and in support of the findings recorded therein, has relied upon the order passed by the Co-ordinate Bench of the Tribunal in the case of *Poddar Pigments Ltd. Vs. Commissioner of Central Excise & CGST, Jaipur* – (2024) 25 Centax 194 (Tri. Del.).

4. Heard both sides and carefully perused the case records.

5. The provisions for levy of IGST on imported goods is contained in Section 3 of the Customs Tariff Act, 1975. Sub-section (7) of Section 3 *ibid* provides the liability for payment of IGST at the specified rate, as is leviable under Section 5 of IGST Act, 2017. The value for the purpose of levy of IGST has been considered in the said sub-section, as the value of imported goods to be determined as per the provisions contained in sub-section (8) of Section 3 *ibid*. The said sub-section (8) provides that the aggregate of (i) value of imported goods determined under sub-section (1) of Section 14 *ibid*; and (ii) any duty of customs 'chargeable' on such goods under Section 12 *ibid*; shall be considered for arriving at the value for computation of the IGST amount. The said provision under the Customs statue for the purpose and manner of levy and collection of IGST has also been considered in Section 5 of the IGST Act, 2017.

6. The imported goods in question, though attract BCD as per the tariff rate of 20%, but the same are exempted from payment of duty in terms of notification dated 01.04.2015, when imported against a valid DFIA issued by the competent authority under the Foreign Trade Policy. In the case in hand, the fact is not under dispute that the appellant had not complied with the conditions itemized in the said notification dated 01.04.2015. We find that DFIA license issued by the competent authority in this case, had only captured the CIF value and quantity of 'Dyed Polyester Fabrics', which was permitted for import under the said license. Such aspect has also been considered in Paragraphs 4.25 and 4.27 in the Foreign Trade Policy. Debit of the duty amount in the said DFIA license

is not the condition precedent as per the FTP read with the notification dated 01.04.2015. On perusal of the B/Es available in the case file, we find that the system had considered for addition of the notional BCD amount in the assessable value, and the actual amount claimed by the appellant as per the said notification was not considered by the ICES. Further, it is not the case of Revenue that the appellant had debited the duty amount in the license, which would be evident from the B/Es, wherein against the column 'duty debit', it has been specifically mentioned as 'zero'. Rather, as per the requirement of the DFIA license, the appellant had only disclosed the value and quantity of the imported goods. Therefore, we are not in agreement with the findings recorded by the learned Commissioner (Appeals) in the impugned order that the duty of customs leviable is debited by the appellant in the authorisation, instead of making payment of duty amount in cash.

7. The charging provision for levy of duties of customs on the imported goods is contained in Section 12 of the Act of 1962. It has been provided that the duties of customs shall be leviable at such rates as may be specified under the Customs Tariff Act, 1975. Powers to grant exemption from payment of such duty as per the Tariff Act of 1975 has been provided to the Central Government under Section 25 of the Act of 1962. Under the said statutory provisions, the Central Government is empowered to issue any notification in the public interest, by exempting generally, either absolutely or subject to such conditions, with regard to the goods of any specified description, from the whole or any part of customs duty leviable thereon. On reading of the above said statutory provisions together, it would transpire that even though the duties of customs are leviable as per the prescribed tariff rate, but the same can be exempted by the Central Government by deriving the powers under Section 25 of the Act of 1962. In the present case, the notification dated 01.04.2015 was issued by the Central Government in the Gazette of India, by exempting the goods imported under DFIA from payment of duties of customs leviable thereon at the rate prescribed in the Customs Tariff Act, 1975. The lower authority in the impugned order has not specifically objected to the fact that the appellant did not comply to the conditions mentioned in the said notification dated 01.04.2015. Since the appellant had complied with the requirements contained in the FTP read with the notification dated 01.04.2015, the exemption claimed towards

payment of BCD is in consonance with such statutory provisions. In view of the fact that the BCD amount claimed as 'zero' in the B/Es filed for assessment, such rate of duty claimed should alone be considered for calculation of the IGST amount payable into the Government exchequer. Therefore, we are not in agreement with the findings recorded in the impugned order that ignoring the benefit of notification dated 01.04.2015, the tariff rate should be considered for computation of the IGST amount.

8.1 We also find support from the orders (supra) referred to by the learned Advocate for the appellant that in the presence of a notification in granting exemption from payment of BCD, the tariff rate cannot be considered for determining the amount of duties of customs leviable under Section 3 of the Customs Tariff Act, 1975 including IGST. The relevant paragraph in the case of *Morarjee Brembana Ltd.* (supra) is quoted below:

> *"17. Effective rate of duty to be added and not tariff rate :- The next point of dispute is that in computing the countervailing duty, effective rate of duty should be added and not the tariff rate. In the present case, the appellants are entitled to the benefit of Notification No. 2/95-C.E. which provides for payment of 50% of each of the duties of Customs thus if the tariff rate is 40%, the effective rate will be 20% i.e. 50% of 40%. On the assumption that the assessable value is Rs. 100/-, the effective rate of basic customs duty would be Rs. 20%. In the show cause notice for the purpose of calculation of CVD, the assessable value was determined as 100 + 20% and no corrigendum would subsequently issued so as to amend the method of determination of assessable value so as to increase the demand amount. However in the impugned order the adjudicating authority has observed that the assessable value for the purpose of countervailing duty should be computed by addition of the basic customs duty without extending the benefit of the notification. Thus as per the Commissioner, the assessable value for the purpose of levy of CVD is to be determined as Rs. 100/- + Rs. 40/- for the month of February, 2000. Similarly for calculating special additional duty the full rate of CVD has been computed without giving effect to Notification No. 2/95. Sub-section (2) of the Section 3 lays down the manner of determination of value for the purpose of computing CVD leviable under Section 3 the same reads as follows :-*
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> > *For the purpose of calculating under this section, the additional duty on any imported article, where such duty is leviable at any percentage of its value, the value of the imported article shall, notwithstanding anything contained in Section 14 of the Customs Act, 1962 (52 of 1962) be the aggregate of -*
> >
> > *(i) The value of the imported article determined under sub-section (1) of the said Section 14 or the tariff value of such article fixed under sub-section (2) of that section, as the case may be; and*

(ii) Any duty of customs chargeable on that article under Section 12 of the Customs Act, 1962 (52 of 1962), and any sum chargeable on that article under any law for the time being in force as an addition to and in the same manner as, a duty of customs, but not including the duty referred to in sub-section.

It will be evident from the above that only the duties that are chargeable on that article under Section 12 of the Customs Act are required to be added to the assessable value determined under Section 14 of the Customs Act. In the present case the appellants are required to pay 50% of the duty of the basic custom duty under Notification No. 2/95. Therefore only 50% of the basic custom duty is required to be added to the assessable value under Section 14 for the purpose of qualification of CVD. Therefore the method of computation by assessable value for the purpose of computing CVD adopted by Commissioner of Central Excise for February, 2000 is not correct. Only the effective duty i.e. the duty applicable after giving effect to the notification should only be added to the assessable value under Section 14 for determining the assessable value for computing the CVD."

8.2 Further, an identical issue involving the exemption benefit provided under Notification No.82/92-C.E. dated 27.08.1992, granting exemption in the case of clearance of goods at 'Nil' rate of BCD by an EOU, was also considered by the Tribunal in the case of *Parasrampuria International* (supra), holding as under:

"4. ……. Once the basic Customs duty is exempted in respect of levying and collecting of Additional Customs duty, the assessable value will be value of the goods plus Basic Customs duty (which is nil in the present case). The contention of the Revenue is that the Basic Customs duty which is chargeable as prescribed in the Tariff has to be added is not sustainable as sub-section (2) of Section 3 of the Customs Tariff Act provides for addition of "any duty of Customs chargeable on that article." As in this case the duty of Customs chargeable is nil, the question of adding any Basic Customs duty in assessable value does not arise…."

8.3 The issue involved in the order passed by the Co-ordinate Bench of the Tribunal in the case of *Poddar Pigments Ltd.* (supra), cited by the learned AR for revenue, is distinguishable from the facts of the present case, inasmuch as interest liability on delayed payment of IGST was the subject matter of dispute in the said referred case; whereas, in the present case, the issue for consideration by this Bench is confined to addition of correct applicable BCD for calculation of the IGST amount.

9. In view of the above discussions and analysis, we do not find any merits in the impugned order, insofar as it has rejected the appeals filed by the appellant. Therefore, the same is set aside and the appeals are allowed in favour of the appellant.

(Order pronounced in the Open court on 15.10.2026)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

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