CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. I

Customs Appeal No. 40884 of 2023

(Arising out of order in Original No.103068/2023, dated 15.09.2023 passed by Commissioner of Customs, Chennai II Import, Custom House, NO.60, Rajaji Salai, Chennai 600 001).

S L Lumax Limited **.... Appellant**
G-15, SIPCOT Industrial Park
Irrungattukottai, Sriperumbudur
Kacheepuram 602 105

VERSUS

Commissioner of Customs **...Respondent**
Chennai II Commissionerate
Custom House, No.60, Rajaji Salai
Chennai 600 001

WITH

Customs Appeal No. 40981 of 2025

(Arising out of Order in Appeal Seaport C.Cus.II No.491/2025 dated 29.05.2025 passed by Commissioner of Customs, (Appeals II), 60, Rajaji Salai, Custom House, Chennai 600 001).

S L Lumax Limited **.... Appellant**
G-15, SIPCOT Industrial Park
Irrungattukottai, Sriperumbudur
Kacheepuram 602 105

VERSUS

Commissioner of Customs **...Respondent**
Chennai II Commissionerate
Custom House, No.60, Rajaji Salai
Chennai 600 001

AND

Customs Appeal No. 40982 of 2025

(Arising out of Order in Appeal Seaport C.Cus.II No.490/2025 dated 29.05.2025 passed by Commissioner of Customs, (Appeals II), 60, Rajaji Salai, Custom House, Chennai 600 001).

S L Lumax Limited **.... Appellant**
G-15, SIPCOT Industrial Park
Irrungattukottai, Sriperumbudur
Kacheepuram 602 105

VERSUS

Commissioner of Customs **...Respondent**
Chennai II Commissionerate
Custom House, No.60, Rajaji Salai
Chennai 600 001

APPEARANCE :

Shri Rohan Muralidharan, Advocate for the Appellant
Ms. O.M. Reena, Authorised Representative for the Respondent

CORAM :

HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)
HON'BLE MR. AJAYAN T.V, MEMBER (JUDICIAL)

FINAL ORDER NOs.41120-41122/2026

DATE OF HEARING: 29.05.2026
DATE OF DECISION:28.10.2026

Per Mr. Ajayan T.V.

These three appeals are preferred by M/s S L Lumax Limited, Sriperumbudur, the appellant herein, which is engaged, inter alia, in the manufacture of automotive lamp assemblies, chassis, mirrors and other parts and accessories of motor vehicles. Customs Appeal No. 40884/2023 assails Order in Original No. 103068/2023 dated 15.09.2023 of the Commissioner of Customs, Chennai II (Import). Customs Appeal No. 40982/2025 and Customs Appeal No. 40981/2025 assail Orders in Appeal Seaport C.Cus.II Nos. 490/2025 and 491/2025, both dated 29.05.2025, of the Commissioner of Customs (Appeals II), Chennai, which affirmed Order in Original No. 108979/2024 dated 05.09.2024 of the Additional Commissioner of Customs (Chennai SEZ and FTWZ) and Order in Original No. 108732/2024 dated 26.08.2024 of the Deputy Commissioner of Customs (Chennai SEZ and FTWZ) respectively. Since all three appeals concern the same goods, they were heard together and are disposed of by this common order.

Relevant Facts

2. The goods are flexible or metal core printed circuit boards populated with light emitting diodes, referred to in the record as LED

strips, which are specifically shaped for particular models of motor vehicles. After import they are assembled with a plastic bezel, lens and housing, fastened with screws, into head lamps, tail lamps, daytime running lamps, logo puddle lamps and other lighting equipment of motor vehicles. The dispute in all three appeals concerns their classification within Heading 8512 of the First Schedule to the Customs Tariff Act, 1975, as between CTI 8512 2010 or 8512 2020, which cover lighting or visual signalling equipment of a kind used on motor vehicles, and CTI 8512 9000, which covers parts of such equipment. As will be seen, the two positions, in turn, have been taken by the Revenue against the very same importer.

3. The facts of Customs Appeal No. 40884/2023 are that on intelligence developed by the Directorate of Revenue Intelligence (DRI), the import data of the appellant for the period from October 2017 to January 2021, covering 701 Bills of Entry filed at Chennai Seaport, Air Cargo Complex Chennai, Kattupalli Port and ICD Irungattukottai, was examined. It was found that the appellant had classified the goods under different tariff items at different ports, namely 8512 2010, 8512 2020, 8512 2090, 8512 9000, 8539 2120, 8539 9020 and 8708 9900, and had described them in the Bills of Entry as parts of automobile lighting equipment. By letter dated 29.01.2020, the DRI called for import documents for the preceding five years. The appellant furnished sample Bills of Entry, invoices, CEPA certificates and photographs of the goods by letter dated 13.02.2020. By letter dated 11.03.2020, it intimated its understanding that the goods merited classification under CTI 8512 2010 and, by demand drafts dated 11.03.2020, paid differential duty of Rs. 1,49,78,688/- with interest of Rs. 22,88,943/-, aggregating Rs. 1,72,67,631/-, realised under challans dated 17.03.2020 and 20.03.2020. Summons were issued on 12.08.2021 and 31.08.2021, and the statements of Shri R. Murali, Chief Financial Officer, and Shri V. Sathiyanarayanan, Assistant General Manager, were recorded under Section 108 of the Customs Act, 1962 (the Act) on 27.08.2021 and 08.09.2021.

4. Show Cause Notice F.No. S.Misc.54/2022-Gr.5A dated 10.10.2022 was thereafter issued. It alleged that the goods were

complete and ready to use, required no further manufacture, were unique to particular vehicle models and imparted to the lamps their essential character, so that even if incomplete they were classifiable as complete lighting equipment under CTI 8512 2010 or 8512 2020 by virtue of Rule 2(a) of the General Rules for the Interpretation of the First Schedule (GRI). It further alleged that the appellant, having classified the same goods under various headings over time, was aware of the correct classification and had deliberately misstated it to evade duty. It accordingly proposed reclassification and reassessment, demand of differential duty of Rs. 11,31,18,616/- under Section 28(4) with interest under Section 28AA, appropriation of the amount voluntarily paid, confiscation under Section 111(m) of goods valued at Rs. 239,12,02,832/-, and penalties under Sections 112(a) and 114A. The appellant paid a further sum of Rs. 8,60,30,343/- under protest on 10.11.2022.

5. The appellant replied to the aforesaid SCN contending that the goods were parts classifiable under CTI 8512 9000 and contesting the invocation of the extended period, confiscation and penalties. By the Order in Original No.10368/2023 dated 15.09.2023, the Commissioner held the goods classifiable under CTI 8512 2010 or 8512 2020 by application of GRI 2(a). Finding that Rs. 1,21,09,604/- had already been discharged through MEIS scrips at the time of clearance, he redetermined the differential duty at Rs. 10,10,09,012/-, comprising basic customs duty of Rs. 7,78,19,049/-, social welfare surcharge of Rs. 77,81,538/- and integrated tax (IGST) of Rs. 1,54,08,445/-, and confirmed it with interest under Section 28AA, holding at paragraphs 39 and 40 that the appellant had deliberately suppressed the true classification which it had itself earlier adopted and had fraudulently classified the goods under various tariff items. He appropriated the amounts paid, held the goods liable to confiscation under Section 111(m), imposed a redemption fine of Rs. 23,90,00,000/- under Section 125 although the goods had admittedly been cleared, imposed under Section 114A a penalty equal to the differential duty along with interest with the option of the reduced penalty under the proviso, and refrained from imposing penalty under Section 112(a). Within thirty days of receipt of the order, the appellant paid the balance interest of

Rs. 4,38,99,077/- and twenty five per cent of the penalty, namely Rs. 2,52,52,253/-, on 01.11.2023. On the appellant's own reckoning it has thus paid duty of Rs. 10,10,09,031 and interest of Rs. 4,61,88,020/-, of which Rs. 70,45,631/- is interest on the IGST component.

6. The two later appeals relate to clearances from the Free Trade and Warehousing Zone of M/s J. Matadee Free Trade Zone, Chennai, into the Domestic Tariff Area, under one Bill of Entry each. In both, the appellant classified the goods under CTI 8512 2010 and claimed the preferential rate under Serial No. 812 of Notification No. 152/2009-Cus dated 31.12.2009, the goods being of Korean origin. In the matter giving rise to Customs Appeal No. 40982/2025, concerning Bill of Entry No. 2005616 dated 08.03.2022, post clearance audit took the view that the goods were parts classifiable under CTI 8512 9000, to which the notification did not extend. An audit consultative letter dated 28.04.2023 proposed a demand of Rs. 12,60,161/-. The appellant replied on 23.06.2023 that the very goods stood proposed for classification under CTI 8512 2010 in the notice dated 10.10.2022. Two items covered by that notice were excluded, and Show Cause Notice No. 08/2024 dated 07.03.2024 demanded Rs. 11,06,652/- under Section 28(1) with interest, proposing confiscation under Section 111(m) and penalty under Section 112(a). Pursuant to the appellant’s reply and after hearing the counsel for the appellant, by Order in Original No. 108979/2024 dated 05.09.2024, the Additional Commissioner confirmed the classification under CTI 8512 9000, the demand and interest, held the goods liable to confiscation with a redemption fine of Rs. 11,06,650/-, and imposed a penalty of Rs.1,10,665/- under Section 112(a).

7. In the matter pertaining to Customs Appeal No. 40981/2025, an audit consultative letter dated 25.07.2023 proposed a demand of differential duty of Rs. 20,46,707/- on two Bills of Entry. The appellant pointed out, in reply to the pre notice consultation letter dated 10.01.2024, that Bill of Entry No. 2026346 dated 07.11.2022 belonged to its sister concern M/s S L AP Private Limited. Excluding that portion, Show Cause Notice No. 24/2024 dated 01.05.2024 demanded Rs. 1,85,861/- on Bill of Entry No. 2026965 dated 14.11.2022 under

Section 28(1), with interest, confiscation and penalties under Sections 112(a) and 114A. Pursuant to the appellant's reply and after according a personal hearing, the Deputy Commissioner, vide Order in Original No. 108732/2024 dated 26.08.2024 confirmed the demand with interest, held the goods liable to confiscation with a redemption fine of Rs. 1,50,000/- and imposed a penalty of Rs. 18,000/- under Section 112(a)(ii). In both matters the adjudicating authorities rejected the contention that the Special Economic Zones Act, 2005 (the SEZ Act) and the Special Economic Zones Rules, 2006 (the SEZ Rules) contain no machinery for interest, confiscation or penalty, holding that the Act applied to such clearances by force of the notifications issued under Section 22 of the SEZ Act. By the impugned Orders in Appeal dated 29.05.2025, the Commissioner (Appeals) affirmed both orders, observing in Order in Appeal No. 491/2025 that inconsistent departmental views in prior matters, while undesirable, do not negate the correctness of the present classification.

Submissions on behalf of the appellant

8. Shri Rohan Muralidharan, learned Advocate for the appellant, filed a written synopsis and, by a miscellaneous application filed sought to make additional submissions. At the outset, he stated that in Customs Appeal No. 40884/2023 the appellant does not contest the classification under CTI 8512 2010 or 8512 2020, which it has followed in all its imports from 2022, and confines its challenge to the invocation of the extended period of limitation, the confiscation and redemption fine, the penalty under Section 114A and the interest and penalty on the IGST component. He urged that the Revenue, having accepted the Order in Original dated 15.09.2023 without appeal, has in the two later matters taken a diametrically contrary view that identical goods are mere parts under CTI 8512 9000, and demonstrated by reference to part numbers and model designations that the goods in Customs Appeal No. 40981/2025 are identical to, and those in Customs Appeal No. 40982/2025 pari materia with, goods covered by the notice of 2022. Reliance was placed on *Gujarat State Fertilizers Co v. CCE, 1997 (91) E.L.T. 3 (S.C.), Greaves Cotton and Co Ltd v. Union of India, 1989 (43) E.L.T. 263 (Bom.), Marsons Fan Industries v. CCE, 2008 (225)*

E.L.T. 334 (S.C.), CCE v. Bigen Industries Ltd, 2006 (197) E.L.T. 305 (S.C.) and *Jayaswals Neco Ltd v. CCE, 2006 (195) E.L.T. 142 (S.C.)*.

9. On limitation, counsel argued that the earlier classification was a bona fide and inadvertent position, corrected as soon as the Department's view was known, that the dispute is interpretative, and that the Revenue cannot allege wilful misstatement when it is itself unclear on the classification, as its own later orders show. He cited *Northern Plastic Ltd v. Collector of Customs and Central Excise, 1998 (101) E.L.T. 549 (S.C.), CCE v. Standard Niwar Mill, 2013 (296) E.L.T. 164 (All.), Midas Fertchem Impex Pvt Ltd v. Principal Commissioner of Customs, 2023 (384) E.L.T. 397 (Tri. Del.), Secure Meters Ltd v. Principal Commissioner of Customs, 2025 (1) TMI 1383,* and *K. Sankar v. Commissioner of Customs, 2026 (2) TMI 1031-CESTAT Chennai*. Without prejudice, he contended that Section 114A provides for a penalty equal to the duty or the interest and not both, relying on *Xiaomi Technology India Pvt Ltd v. Principal Commissioner of Customs, 2025 (11) TMI 1120-CESTAT Chennai* and *CC and ST v. Sony Sales Corporation, 2021 (376) E.L.T. 472 (Kar.),* and that, the duty, interest and twenty five per cent penalty having been paid within thirty days, the balance penalty stands waived under the *proviso*.

10. On confiscation, it was urged that a claim of classification, accompanied by a full and true description and value, is not a misdeclaration under Section 111(m), relying on *Northern Plastic, supra* and *Commissioner of Customs v. Gaurav Enterprises, 2006 (193) E.L.T. 532 (Bom.),* and that no redemption fine can be imposed on goods cleared long ago and neither available nor released under bond, relying on *Mahindra Aerostructures Pvt Ltd v. Commissioner of Customs, 2025 (6) TMI 690 -CESTAT Chennai* and *MIOT Hospitals Pvt Ltd v. Commissioner of Customs, 2023 (9) TMI 464 -CESTAT Chennai*. On the IGST component, counsel submitted that Section 3(12) of the Customs Tariff Act, 1975 did not, during the relevant period, borrow the provisions of the Act relating to interest, penalty or confiscation, relying on *A.R. Sulphonates Pvt Ltd v. Union of India, 2025 (4) TMI 578 (Bom.), Flextronics Technologies Pvt Ltd v. Commissioner of Customs, 2024 (2) TMI 1509 -CESTAT Chennai* and *Suryadev Alloys*

and Power Pvt Ltd v. Principal Commissioner of Customs, 2025 (8) TMI 1356 -CESTAT Chennai.

11. In the two later appeals, besides defending CTI 8512 2010 on the strength of GRI 2(a) and the decisions in *Bharat Heavy Electricals Ltd v. Collector of Customs, 1987 (28) E.L.T. 545 (Tri.), Polar Appliances Ltd v. Commissioner of Customs, 2001 (127) E.L.T. 448 (Tri. Del.)* and *CCE v. Phoenix International Ltd, (2007) 10 SCC 114*, and contending that the burden to reclassify lay on the Revenue under *Commissioner of Customs v. D.L. Steels, 2022 (381) E.L.T. 289 (S.C.), Union of India v. Garware Nylons Ltd, (1996) 10 SCC 413* and *Warner Hindustan Ltd v. CCE, 1999 (113) E.L.T. 24 (S.C.)*, counsel urged in the alternative that the goods, being LED assemblies on printed circuit boards, fall under CTI 8541 4100 by virtue of Note 2(a) to Section XVI, relying on *Collector of Central Excise v. Delton Cables Ltd, 2005 (181) E.L.T. 373 (S.C.), Vareli Weaves v. Union of India, 1996 (83) E.L.T. 255 (S.C.)* and the decision of the Harmonized System Committee at its 54th Session in September 2014. By the miscellaneous application he raised the purely legal ground that Section 30 of the SEZ Act, though it charges duty on goods removed from a Special Economic Zone to the Domestic Tariff Area, provides no machinery for recovery of duty short levied, and that Rule 47(5) of the SEZ Rules confers on the jurisdictional authorities powers limited to refund, demand, adjudication, review and appeal, without importing Section 28 of the Act or the provisions for interest, confiscation and penalty. For this he relied on the decision of this Tribunal in *Dell International Services India Pvt Ltd v. Principal Commissioner of Customs, Final Order No. 40372/2026 dated 17.03.2026 in Customs Appeal No. 40646 of 2023, 2026 (3) TMI 934*, and, in support of penalty being unwarranted in an interpretative dispute, on *International Merchandising Company LLC v. Commissioner of Service Tax, 2022 (67) G.S.T.L. 129 (S.C.).*

Submissions on behalf of the respondent

12. Ms. O.M. Reena, learned Authorised Representative, reiterated the findings of the Order in Original and of the Orders in Appeal. No submission was advanced to distinguish the decision in Dell International Services, to dispute the identity of the goods

demonstrated by the appellant, or to explain the opposite classifications adopted by the Revenue in respect of them.

Analysis

13. We have heard the rival submissions and perused the materials available on record.

14. The merits of the classification in Customs Appeal No. 40884/2023 are not in issue, the appellant having accepted CTI 8512 2010 or 8512 2020.The issues that arise for decision are:

i. Whether the goods covered by Customs Appeal No. 40884/2023 were liable to confiscation under Section 111(m) and whether the redemption fine of Rs. 23,90,00,000/- is sustainable?

ii. Whether interest and penalty could be levied on the IGST component of the demand?

iii. Whether, in the subsequent appeals, the demand of duty, interest, confiscation, redemption fine and penalty could be raised in respect of goods cleared from a Special Economic Zone to the Domestic Tariff Area?

iv. Whether the extended period of limitation under Section 28(4) was validly invoked in Customs Appeal No. 40884/2023 and, if not, what survives of the demand? and

v. Whether the penalty under Section 114A is sustainable?

Discussion and findings

A. Confiscation and the redemption fine of Rs. 23,90,00,000/-

15. The largest single imposition in these appeals is the redemption fine, which exceeds twice the differential duty. Section 111(m) renders liable to confiscation goods which do not correspond in respect of value or in any other particular with the entry made under the Act. The Commissioner has not found that any Bill of Entry misdescribed the goods, misstated their value, quantity or origin, or misrepresented any physical attribute. The case of the Revenue, from the notice to the order, is that the appellant claimed the wrong tariff item. The goods were described by part number and as parts of automobile lighting equipment, a description which, as will presently be seen, the Revenue has itself treated as correct in respect of identical goods.

16. The Hon'ble Supreme Court in *Northern Plastic Ltd v. Collector of Customs and Central Excise, 1998 (101) E.L.T. 549 (S.C.)*, held that a declaration of this kind is in the nature of a claim made on the basis of the belief entertained by the importer and cannot be said to be a misdeclaration as contemplated by Section 111(m), where full and correct particulars of the goods have been furnished. A coordinate Bench of this Tribunal at Chennai, in *Sankhla Industries v. Commissioner of Customs, Final Order No. 40134/2025 dated 29.01.2025, 2025 (1) TMI 1459*, applied the same principle to the regime of self assessment, holding that a classification adopted on the importer's understanding, with the goods correctly described, is not a misdeclaration and that confiscation and penalties could not survive. The Principal Bench took the same view in *Midas Fertchem Impex Pvt Ltd v. Principal Commissioner of Customs, 2023 (384) E.L.T. 397 (Tri. Del.)*. This Bench has applied the principle to claims of classification made in self assessed Bills of Entry in *Johnson Lifts Pvt Ltd v. Commissioner of Customs,* 2026 (1) TMI 535 – CESTAT CHENNAI, observing, noticing *Aureole Inspecs India Pvt Ltd v. Principal Commissioner of Customs, (2023) 11 Centax 211 (Tri. Del.)*, which held that classification is a matter of opinion and that an importer cannot be expected to anticipate the heading which the proper officer may later prefer. It did so again in *Toyota Kirloskar Motor Pvt Ltd v. Commissioner of Customs, 2026 (9) TMI 1680- CESTAT CHENNAI*, a case which also concerned parts and accessories of motor vehicles. The introduction of self assessment by the amendment of Section 17 in 2011, on which the Commissioner placed emphasis, casts on the importer the duty to self assess with care. It does not convert the choice of a tariff item, which remains subject to verification and reassessment by the proper officer, into a particular of the goods that has failed to correspond with them and hence a misdeclaration, merely for the reason that the proper officer has come to a different conclusion as to the tariff item. We therefore hold that the goods were not liable to confiscation under Section 111(m).

17. That conclusion is sufficient to set aside the redemption fine, since a fine in lieu of confiscation under Section 125 presupposes goods

liable to confiscation. We are conscious that the Commissioner, after extracting the decision of the Supreme Court in *Weston Components Ltd v. Commissioner of Customs, 2000 (115) E.L.T. 278 (S.C.)*, rested the fine on the decision of the jurisdictional High Court in *Visteon Automotive Systems India Ltd v. CESTAT, 2017 (9) TMI 138-MADRAS HIGH COURT*, which held that the physical availability of the goods is not necessary for imposing a redemption fine. The High Court, however, reasoned that the power to impose the fine springs from the authorisation of confiscation under Section 111. Whenever, as in the instant case, the goods were never liable to confiscation, Visteon is not attracted at all, and our conclusion does not depart from it. That is the course this Bench took in *Toyota Kirloskar supra*, where it held that Weston Components, Synergy Fertichem and Visteon each proceed on the footing that confiscation was authorised, and address only the different question whether a fine may be levied when the goods are not available.

18. It is nonetheless necessary to record the other line of authority urged before us, since the Commissioner did not so much as notice it. The Bombay High Court in *Commissioner of Customs (Import), Mumbai v. Finesse Creation Inc, 2009 (248) E.L.T. 122 (Bom.)*, held that the concept of redemption fine arises only where the goods are available to be redeemed, and that once goods cannot be redeemed no fine can be imposed. The special leave petition of the Revenue against that judgment was dismissed, as reported in *2010 (255) E.L.T. A120 (S.C.)*. The Punjab and Haryana High Court took the same view in *Commissioner of Customs, Amritsar v. Raja Impex (P) Ltd, 2008 (229) E.L.T. 185 (P&H)*, as did the Larger Bench of this Tribunal in *Shiv Kripa Ispat Pvt Ltd v. Commissioner of C.Ex. and Cus., Nasik, 2009 (235) E.L.T. 623 (Tri. LB)*. This Bench, in *J Uthaman v. Commissioner of Customs, 2025 (11) TMI 1652*, upheld the discretion of the adjudicating authority in declining to impose a redemption fine on goods which were neither physically available nor covered by any subsisting bond or bank guarantee, noticing that the Supreme Court in *Union of India v. Raj Grow Impex LLP, 2021 (6) TMI 778*, while distinguishing Finesse Creation on facts, did not disapprove it. This bench in *Mukesh Kumar v. Commissioner of Customs*, *2026 (2) TMI*

916, declined to interfere where the adjudicating authority had refused to impose a fine on unavailable goods after considering *Visteon*. In the present case the goods were cleared for home consumption between 2017 and 2021, were never seized, and were not released under any bond. Since we have held that the goods were not liable to confiscation at all, the imposition of the redemption fine was decidedly untenable.

19. We cannot, however, pass over the manner in which this fine came to be imposed. A fine of Rs. 23,90,00,000/- was levied on a declared value of about Rs. 239 crores without a sentence of reasoning on its quantum, on goods which had passed into home consumption years earlier, on the strength of an extract from a judgment whose foundation, namely the liability of the goods to confiscation, the Commissioner did not pause to examine. The quantum is, moreover, governed by the proviso to Section 125(1), which caps the fine at the market price of the goods less the duty chargeable on them. The Supreme Court held in *Commissioner of Customs, Mumbai v. Mansi Impex, 2011 (270) E.L.T. 631 (S.C.)*, that the determination of the market price is a prerequisite prescribed by the statute itself, and this Bench applied that requirement in *Toyota Kirloskar supra*. No such determination was even attempted here. The discretion under Section 125 is, as the Supreme Court reminded in *Raj Grow Impex supra*, to be guided by law and by reason, and to be exercised on relevant considerations. A quasi judicial authority which treats a figure of that magnitude as an incident of a classification dispute does not exercise that discretion. It abdicates it. The confiscation and the redemption fine in Customs Appeal No. 40884/2023 are set aside.

B. Interest and penalty on the IGST component

20. Integrated tax on imported goods is levied under Section 3(7) of the Customs Tariff Act, 1975, and not under Section 12 of the Act. During the period in dispute, Section 3(12) of the Customs Tariff Act provided that the provisions of the Act and the rules and regulations made thereunder, including those relating to drawbacks, refunds and exemption from duties, shall, so far as may be, apply to the duty or tax chargeable under that section. It did not borrow the provisions

relating to interest, penalty or confiscation. Those words were added only by the Finance (No. 2) Act, 2024 with effect from 16.08.2024.

21. The Bombay High Court in *Mahindra and Mahindra Ltd v. Union of India, (2023) 3 Centax 261 (Bom.)*, following the Constitution Bench in *J.K. Synthetics Ltd v. CTO, (1994) 4 SCC 276*, held that interest and penalty are substantive liabilities which can be levied only if the statute that charges the tax makes a substantive provision for them, and that Section 3 of the Customs Tariff Act made none. The challenge of the Revenue to that judgment was not entertained by the Supreme Court, *(2023) 9 Centax 361 (S.C.)*, and its review petition was dismissed on 09.01.2024, *(2025) 392 ELT 675 (S.C.)*. In *A.R. Sulphonates Pvt Ltd v. Union of India, 2025 (4) TMI 578 (Bom.)* : *2025 (393) E.L.T. 246 (Bom.)*, the same High Court, in a case concerning IGST, set aside the demand of interest, confiscation, redemption fine and penalty and declared that the amendment of Section 3(12) is prospective and applies only from 16.08.2024. Most recently, in *Leben Laboratories Pvt Ltd v. Union of India, 2026 (9) TMI 211 (Bom.*), the High Court directed refund of interest collected on IGST for the period therein which was prior to 16.08.2024. This Bench, in *Kobelco Construction Equipment India Pvt Ltd v. Commissioner of Customs, 2025(11)TMI 1736-CESTAT CHENNAI*, after considering the contention of the Revenue founded on the interdependence of the two enactments and the decision of the Delhi High Court in Interglobe Aviation, followed Mahindra and Mahindra and A.R. Sulphonates. We see no reason to take a different view.

22. The imports in Customs Appeal No. 40884/2023 relate to the period from October 2017 to January 2021. The interest charged on the IGST component of Rs. 1,54,08,445/- cannot be sustained, and the amount of Rs. 70,45,631/- paid by the appellant towards it is liable to be refunded, subject to verification of the figure. Any penalty to the extent it is referable to IGST would equally fail, though, for the reasons in Part E below, the penalty under Section 114A fails in its entirety.

C. The clearances from the Special Economic Zone to the Domestic Tariff Area

23. We take up the two later appeals on the ground raised by the miscellaneous application, since it is a pure question of law, goes to the root of the jurisdiction to raise the demands, and disposes of both appeals in their entirety. The goods were warehoused in a Free Trade and Warehousing Zone, which Section 2(n) of the SEZ Act defines as a Special Economic Zone wherein mainly trading, warehousing and related activities are carried on, and were removed to the Domestic Tariff Area. Section 30 of the SEZ Act makes goods so removed chargeable to duties of customs as leviable on such goods when imported. Rule 47(5) of the SEZ Rules provides that refund, demand, adjudication, review and appeal with regard to matters relating to authorised operations, transactions, and goods and services related thereto shall be made by the jurisdictional Customs and Central Excise authorities in accordance with the relevant provisions of the Act.

24. In *Dell International Services India Pvt Ltd v. Principal Commissioner of Customs, 2026 (3) TMI 934*, a coordinate Bench of this Tribunal held, at paragraph 31, that although Section 30 of the SEZ Act provides for the levy, it does not provide any mechanism for collection, since the SEZ Act does not borrow the relevant provisions of the Act, so that recovery is barred by Article 265 of the Constitution, and that Rule 47(5) confers no power to recover duties not levied or short levied in the manner set out in Section 28 of the Act. At paragraph 32 it held that the SEZ Act does not provide for levy of interest, penalty or confiscation, the authorisation under Rule 47(5) being limited to refund, demand, adjudication, review and appeal, and that the levy of interest, the order of confiscation and the penalty were beyond the powers of the adjudicating authority. The Civil Appeal of the Revenue against that decision, Diary No. 41487 of 2026, was dismissed by the Supreme Court by order dated 09.10.2026, the Court recording, after condoning the delay, that no grounds were made out to interfere with the judgment of the Tribunal.

25. That dismissal was of a statutory appeal under Section 130E of the Act. A Bench of three Judges of the Supreme Court held in

Kunhayammed v. State of Kerala, (2000) 6 SCC 359, also reported in 2001 (129) E.L.T. 11 (S.C.), that once the appellate jurisdiction of the Supreme Court has been invoked, the order passed in appeal attracts the doctrine of merger, whether it be one of reversal, of modification or merely of affirmation. The principle was applied by a coordinate bench in *Motonic India Automotive Pvt Ltd, 2025(5)TMI 638*. The view taken in *Dell International Services* thus stands affirmed. It is, besides, a decision of a coordinate Bench which judicial discipline obliges us to follow. The reasoning accords with the decision of the High Court of *Andhra Pradesh in GMR Aerospace Engineering Ltd v. Union of India, 2019 (31) G.S.T.L. 596 (A.P.),* which held that the SEZ Act and the SEZ Rules constitute a self contained code, that Section 51 gives them overriding effect, and that Rule 47(5) applies only to the matters it enumerates and cannot be read to import what the SEZ Act does not provide. The special leave petition of the Union against that judgment was dismissed on 26.07.2019, *2019 (7) TMI 1975- SC Order*.

26. We have noticed the earlier decision of the Principal Bench in *Prestige Polymers Pvt Ltd v. Commissioner of Customs, 2025 (3) TMI 15-CESTAT NEW DELHI*, which held that the Commissioner had jurisdiction to demand duty under Section 28 of the Act on goods cleared from a Special Economic Zone. That decision preceded *Dell International Services*, and the view taken in the latter has since been affirmed by the Supreme Court. We are bound to follow it. It is also not material that the noticee in *Dell International Services* was the unit in the zone whereas the appellant here is the importer in the Domestic Tariff Area who filed the Bills of Entry. The ratio rests on the absence in the SEZ Act of any machinery for recovery, interest, confiscation or penalty, which is a feature of the statute and not of the person proceeded against. The Revenue has not suggested otherwise.

27. It follows that the demands of Rs. 11,06,652/- and Rs. 1,85,861/-, raised under Section 28(1) of the Act, together with the interest, the confiscation, the redemption fines of Rs. 11,06,650/- and Rs. 1,50,000/- and the penalties of Rs. 1,10,665/- and Rs. 18,000/-, cannot be sustained.

28. The contentions of the appellant on the classification of the goods under CTI 8512 2010, on the alternative classification under CTI 8541 4100 and on the burden of proof were fully argued, and it is right that we should say why we do not answer them. The infirmity we have found is not one of degree or of quantum. It goes to the root of the proceedings, for the adjudicating authorities had no machinery under the SEZ Act to raise the demand, to charge interest, to confiscate the goods or to impose a penalty at all. Where a proceeding fails for want of authority of law, the forum is not called upon to pronounce on merits which can no longer affect the result, and the Tribunal has the discretion to dispose of the appeal on the shortest point that is decisive of it. The Supreme Court in *Municipal Corporation of Greater Mumbai v. Pankaj Arora, Criminal Appeal No. 164 of 2018*, held that once a court concludes that the proceeding before it is not maintainable, it has no jurisdiction to make further observations on the merits, and that observations so made are not binding. The Court approved the test, stated in Mulla, of whether the court considers the adjudication of the issue material and essential for its decision. The High Court of Madras in *Australian Foods Ltd v. CCE, Chennai II, 2010 (254) E.L.T. 392 (Mad.),* similarly regarded jurisdiction, when challenged, as the prime and basic issue to be dealt with before the others.

29. A close parallel is furnished by the settled position where a demand fails on limitation, which equally goes to the authority to raise it. The Supreme Court in *Commissioner of Customs, Mumbai v. B.V. Jewels, 2004 (172) E.L.T. 3 (S.C.),* observed that if the Tribunal found that the action taken by the departmental authorities was beyond the period of limitation, "it could have disposed of the appeals before it only on that ground without examining the merits". The High Court of Allahabad, speaking through D.Y. Chandrachud, C.J., held in *Commissioner of Customs, Central Excise and Service Tax v. Monsanto Manufacturer Pvt Ltd, 2014 (35) S.T.R. 177 (All.)*, following *State Bank of India v. B.S. Agricultural Industries (I), (2009) 5 SCC 121*, that once the demand is held to be time barred there is no occasion for the Tribunal to enquire into the merits, and that in doing so it acts outside its jurisdiction. The jurisdictional High Court, in *E.T.A. General Pvt Ltd v. Additional Commissioner of Central Excise, Chennai, 2016 (44)*

S.T.R. 409 (Mad.), applied the same principle to set aside an order of this Tribunal which, having held the appeal to be time barred, had proceeded to decide the merits, describing that course, in the words of the Supreme Court, as an illegality. This Bench has followed these decisions in *Nobel King Purchase Solutions Pvt Ltd v. Commissioner of GST and Central Excise*, *2025 (5) TMI 2163- CESTAT CHENNAI*, and in *Billion Honour Accounting Services Pvt Ltd v. Commissioner of GST and Central Excise*, *2025 (6) TMI 14 – CESTAT CHENNAI*, refraining from any finding on merits once the demand was found to be wholly barred by limitation. The principle applies with greater force where, as here, the defect is not a bar of time but the absence of the very power to make the demand. A finding by us that the goods are complete lighting equipment, or parts, or light emitting diodes would decide nothing between the parties in these two appeals. It would be obiter and would bind no one. Nor does leaving the question open prejudice either side. In Customs Appeal No. 40884/2023 the appellant has accepted classification under CTI 8512 2010 or 8512 2020, and the Revenue has accepted the Order in Original of 2023 to that effect, given that no appeal preferred by the Revenue has been brought to our notice. Our finding on limitation in that appeal rests on the fact that the Revenue has itself taken the contrary view in the later matters, and not on any view of ours as to which of the two is correct. We therefore express no opinion on the classification of the goods in Customs Appeal No. 40981/2025 and Customs Appeal No. 40982/2025, and the question is left open.

30. We would be failing in our duty, however, if we did not record our disquiet at the course the Revenue has followed. The Commissioner of Customs, Chennai II (Import), in a notice of 2022 and an order of 2023 which the Revenue has accepted without appeal, held these goods to be complete lighting equipment under CTI 8512 2010 or 8512 2020 and visited the appellant with a demand for the extended period, a penalty and a fine of over Rs. 23 crores for having treated them as parts. Within a year, the authorities at the Special Economic Zone held the same and similar goods, imported by the same appellant, to be parts under CTI 8512 9000, and penalised the appellant for having treated them as complete equipment. The Order in Appeal No.

490/2025 compounded the matter by describing the earlier notice as one issued to a related entity, when it was issued to the appellant itself, and the Order in Appeal No. 491/2025 dismissed the contradiction as merely undesirable. A taxpayer is entitled to expect that the State, speaking through its several officers, speaks with one voice on the same goods. When it does not, the least that may be expected of an appellate authority is that it confronts the contradiction and instructs course correction. We trust that the appropriate authorities concerned will take note.

D. Extended period of limitation in Customs Appeal No. 40884/2023

31. Section 28(4) of the Act permits a demand within five years only where the short levy is by reason of collusion, any wilful misstatement or suppression of facts. In *Cosmic Dye Chemical v. Collector of Central Excise, 1995 (75) ELT 721 (SC)*, the Supreme Court held, in the context of the identically worded proviso to Section 11A of the Central Excise Act, 1944, that misstatement or suppression of facts must be wilful, that is, with intent to evade duty. Suppression, as explained in *Pushpam Pharmaceuticals Company v. CCE, 1995 (78) E.L.T. 401 (S.C.)*, means the deliberate withholding of information which the assessee knew it was bound to disclose, and the Supreme Court in *Aban Loyd Chiles Offshore Ltd v. Commissioner of Customs, 2006 (200) E.L.T. 370 (S.C.)*, read the proviso to Section 28 of the Act in the same way. In *Uniworth Textiles Ltd v. Commissioner of Central Excise, (2013) 9 SCC 753*, the Apex Court held that the conclusion that mere non payment of duty is equivalent to collusion, wilful misstatement or suppression of facts is untenable, adding that the burden of proving mala fides lies on the Revenue which alleges it and not on the assessee to prove its bona fides. This Bench applied that decision to a classification dispute in *Johnson Lifts supra*. In *Secure Meters Ltd v. Principal Commissioner of Customs, 2025 (393) E.L.T. 93 (Tri. Del.)*, the Principal Bench held that, classification being part of self assessment subject to reassessment by the proper officer, an importer cannot be held guilty of wilful suppression for not anticipating the classification later adopted by the DRI. The appeal of the Revenue was

dismissed by the Supreme Court, which recorded its complete agreement with that view, *(2025) 34 Centax 351 (S.C.)*.

32. Evaluated on these principles, the findings at paragraphs 39 and 40 of the Order in Original cannot stand. They consist of conclusions. The Supreme Court has reiterated in *Tata Steel Ltd v. Union of India, 2026 INSC 920: 2026 (8) TMI 1587-Supreme Court*, in the context of Section 74 of the Central Goods and Services Tax Act, 2017, that the foundational facts for an inference of fraud, wilful misstatement or suppression must be evident from the notice itself, and that those words are not to be recited mechanically to secure recovery beyond the normal period. This Bench applied that principle in *Toyota Kirloskar supra*. The Commissioner did not identify any fact that was concealed. The Bills of Entry disclosed the goods by part number and description, the value and the origin, and the DRI built its case from the import data and from documents which the appellant itself furnished on 13.02.2020. The classification under CTI 8512 2010 or 8512 2020 was reached by applying GRI 2(a) and the test of essential character, which is an exercise of interpretation on which reasonable minds can and, as the record shows, did differ. The only circumstance relied upon as evidencing intent is that the appellant used different tariff items at different times and ports. A variance of that kind may warrant enquiry. It does not, without more, establish an intent to evade, and the Commissioner did not attempt to show that the choice of tariff item tracked the incidence of duty by design. The reliance on *Eastern Silk Industries*, that fraud is fraud, presupposes the very finding of fraud which the order never arrives at.

33. The decisive circumstance is the conduct of the Revenue itself. The appellant's classification during the period in dispute was, in substance, that the goods are parts under CTI 8512 9000. Within a year of the impugned order, the Revenue's own adjudicating and appellate authorities held goods which the appellant has shown, without contradiction, to be identical or pari materia, to be precisely that. A view which the Revenue itself adopts and defends before this very Tribunal cannot be characterised as a wilful misstatement made with intent to evade duty. Add to this that the appellant, on being asked

for documents by the DRI in January 2020, intimated its understanding and paid differential duty with interest in March 2020, more than two and a half years before the notice. That is not the conduct of an importer bent on evasion. As this Bench observed in *Toyota Kirloskar supra*, conduct of that kind is the antithesis of an intent to evade. The emphasis on self assessment does not alter the position, for the duty of correct self assessment does not dispense with the requirement that the misstatement be wilful, as *Secure Meters* makes clear.

34. We accordingly hold that the extended period of limitation was not validly invoked. The consequence is prescribed by Section 28(10B), inserted by the Finance Act, 2018, under which a notice issued under sub-section (4) is deemed to have been issued under sub-section (1) where it is held unsustainable for the reason that collusion, wilful misstatement or suppression of facts has not been established, and the duty and interest are to be computed accordingly. This Bench confined a demand in a classification dispute to the normal period on the same basis in *Johnson Lifts* supra. The demand is therefore sustainable only in respect of the Bills of Entry whose relevant date, namely the date of the order for clearance under Explanation 1(a) to Section 28, falls within two years preceding the service of the notice dated 10.10.2022. As the appellant has accepted the classification, the differential duty for that period is payable with interest under Section 28AA, save that no interest is payable on the IGST component for the reasons recorded in Part B. The record before us does not permit that computation, which must be undertaken by the adjudicating authority on the basis of the annexures to the notice. Since the demand for the earlier period fails on limitation, the amounts appropriated or paid towards it are liable to be dealt with in accordance with law. Whether the amount of Rs. 1,72,67,631/- paid voluntarily in March 2020, before the notice and without protest, stands on the same footing as the amounts paid under protest and after adjudication was not argued before us, and we leave that question open, to be decided in accordance with law.

E. Penalty under Section 114A

35. A penalty under Section 114A is attracted only where the short levy is by reason of collusion, wilful misstatement or suppression of

facts. Our finding in Part D removes its foundation, and the penalty, including the twenty five per cent paid under the proviso, cannot survive. Penalty is not, in any event, to be imposed on conduct that flows from a bona fide belief, as the Supreme Court laid down in *Hindustan Steel Ltd v. State of Orissa, (1969) 2 SCC 627*, and as this Bench applied to a classification dispute in *Toyota Kirloskar supra*. The alternative submissions that the penalty could not extend to the interest and that the balance seventy five per cent stood waived do not, in consequence, arise, and we express no opinion on them. The Commissioner refrained from imposing a penalty under Section 112(a) and the Revenue has not appealed, so that no question of penalty remains for the period within limitation.

36. To sum up, the appellant has accepted the classification determined in Customs Appeal No. 40884/ 2023, and the differential duty within the normal period, with interest on the basic customs duty and social welfare surcharge, is payable. The extended period was invoked without any finding of wilful intent that the record could support, the goods were never liable to confiscation for a claim of classification, and interest on IGST could not be charged for the period in question. The Order in Original is therefore sustained only to the extent of the demand within the normal period. The two later demands were raised in respect of clearances from a Special Economic Zone without any machinery in the SEZ Act for their recovery, or for interest, confiscation or penalty, as held in *Dell International Services*, which now stands affirmed by the Supreme Court. Those demands fail in their entirety.

37. In the result, the Customs Appeal No. 40884 of 2023 is partly allowed. The Order in Original No. 103068/2023 dated 15.09.2023 is set aside insofar as it confirms the demand for the period beyond two years preceding the service of the Show Cause Notice dated 10.10.2022, holds the goods liable to confiscation under Section 111(m), imposes a redemption fine of Rs. 23,90,00,000/-, demands interest on the IGST component, and imposes penalty under Section 114A.The classification of the goods under CTI 8512 2010 or 8512 2020, which the appellant does not contest, and the demand of

differential duty in respect of the Bills of Entry whose relevant date falls within two years preceding the service of the Show Cause Notice dated 10.10.2022, with interest under Section 28AA on the basic customs duty and social welfare surcharge components, are upheld. The matter in Customs Appeal No. 40884/2023 is remanded to the adjudicating authority for the limited purpose of quantifying the duty and interest payable under clause (ii), adjusting the amounts already paid by the appellant, and granting the consequential refund of the balance, including the interest paid on the IGST component and the penalty paid under Section 114A, in accordance with law. The question whether the amount voluntarily paid in March 2020 is refundable shall be decided in accordance with law. The appellant shall be heard before any such order is passed, and the exercise shall be completed within three months of the receipt of this order. Customs Appeal No. 40982 /2025 and Customs Appeal No. 40981 /2025 are allowed. The Orders in Appeal Seaport C.Cus.II Nos. 490/2025 and 491/2025, both dated 29.05.2025 are set aside, with consequential relief in accordance with law.

(Order pronounced in open court on 28.10.2026)

(AJAYAN T.V.)
Member (Judicial)

(VASA SESHAGIRI RAO)
Member (Technical)

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