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Date: 27.09.2025

CESTAT Ahmedabad Upholds SAD Refund Claim of Importer

This Article has been written by Shri Ravi Shekhar Jha, Advocate based in New Delhi. The views expressed are based on his interpretation of the law. He can be reached at his email id intelconsul@gmail.com or on his Mobile +91-9999005379.

The Customs, Excise & Service Tax Appellate Tribunal (CESTAT), West Zonal Bench, Ahmedabad, recently delivered a significant judgment in the case of *Sanjay Furniture Palace vs. Commissioner of Customs, Kandla*. This decision, pronounced on September 23, 2025, has clarified the applicability of Notification No. 102/2007-Cus dated September 14, 2007, which grants exemption from Special Additional Duty (SAD) on goods imported for subsequent sale.

Background of the Case

The appellants, Sanjay Furniture Palace and its authorized signatory, had filed refund claims under Notification No. 102/2007-Cus for the 4% SAD paid on imported timber. The refund claims were initially sanctioned but later investigated by the Directorate General of Central Excise Intelligence (DGCEI), which alleged that the appellants had submitted forged invoices and failed to correlate the sales invoices with the Bills of Entry. The Adjudicating Authority and the Commissioner (Appeals) denied the refund claims, citing discrepancies in the documentation and alleged fabrication of invoices.

Key Issues Addressed

The Tribunal was tasked with determining whether the appellants were entitled to the benefit of Notification No. 102/2007-Cus, which exempts SAD on goods imported for subsequent sale, provided certain conditions are met. The primary objections raised by the Revenue included:

1. Alleged submission of forged invoices.
2. Lack of correlation between the Bills of Entry and sales invoices.
3. The claim that the timber logs were processed (sawn and cut) before sale, which, according to the Revenue, disqualified the appellants from availing the exemption.

Tribunal's Observations and Ruling

After a detailed examination of the case, the Tribunal ruled in favor of the appellants, setting aside the orders of the lower authorities. Here are the key takeaways from the judgment:

1. **Processing of Goods Does Not Disqualify Refund Claims**: The Tribunal relied on precedents, including the Supreme Court's judgment in *Variety Lumbers* and the Gujarat High Court's decision in *Agarwalla Timbers Pvt. Ltd.*, to conclude that minor processing, such as sawing and cutting timber logs, does not result in a new product. The identity of the imported goods remains intact, and the exemption under Notification No. 102/2007-Cus is still applicable.
2. **Minor Discrepancies in Documentation Are Not Grounds for Rejection**: The Tribunal held that minor discrepancies, such as differences in the number of pieces or the absence of specific endorsements on invoices, do not justify the denial of refund claims. The primary condition is that the goods must be imported for subsequent sale, and this requirement was fulfilled by the appellants.
3. **No Evidence of Forgery**: The Tribunal found no conclusive evidence to support the Revenue's claim that the appellants had submitted forged invoices. It emphasized that lorry receipts and other documents relied upon by the Revenue were insufficient to prove forgery.
4. **Eligibility for Refund**: The Tribunal noted that the appellants had complied with all other conditions of Notification No. 102/2007-Cus, including payment of VAT/Sales Tax, submission of required documents, and filing the refund claim within the stipulated time. Therefore, the appellants were entitled to the refund.
5. **Penalty on Authorized Signatory Set Aside**: Since the refund claim was found to be valid, the Tribunal also set aside the penalty imposed on Anil Aggarwal, the authorized signatory of Sanjay Furniture Palace.

Implications of the Judgment

This judgment is a landmark decision that reinforces the principles of fairness and reasonableness in interpreting exemption notifications. It provides clarity on the following aspects:

- **Processing of Imported Goods**: Minor processing, such as cutting or sawing, does not disqualify goods from the benefit of Notification No. 102/2007-Cus.
- **Documentation Requirements**: While compliance with procedural requirements is essential, minor discrepancies should not lead to the rejection of legitimate refund claims.
- **Burden of Proof**: The Revenue must provide conclusive evidence to substantiate allegations of forgery or fraud.

Conclusion

The Tribunal's decision in this case is a significant victory for importers seeking refunds under Notification No. 102/2007-Cus. It underscores the importance of adhering to the substantive conditions of the notification while also ensuring that procedural lapses or minor discrepancies do not result in undue denial of benefits. This judgment will serve as a guiding precedent for similar cases in the future, promoting a balanced and equitable approach to tax administration.

Source: CESTAT Ahmedabad

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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST ZONAL BENCH : AHMEDABAD

REGIONAL BENCH - COURT NO. 2

CUSTOMS Appeal No. 10699 OF 2015-SM

[Arising out of Order-in- Appeal No KDL-CUSTM-000-APP-475-14-15 dated 26.02.2015 passed by Commissioner of CUSTOMS-KANDLA]

Sanjay Furniture Palace **.... Appellant**
Hissar Road, SIRSA,
HARYANA -125055

VERSUS

Commissioner of Customs, Kandla **.... Respondent**
Custom House, First Floor,
Old High Court Road, Navrangpura,
Ahmedabad, Gujarat -380009

APPEARANCE :

Shri Manish Jain, Advocate for the Appellant
Shri Himanshu Nachane, Superintendent (AR) for the Revenue.

AND

CUSTOMS Appeal No. 10700 OF 2015-SM

[Arising out of Order-in- Appeal No KDL-CUSTM-000-APP-475-14-15 dated 26.02.2015 passed by Commissioner of CUSTOMS-KANDLA]

Anil Aggarwal **.... Appellant**
Authorised Signatory of M/s. Sanjay Furniture Palace
Hissar Road, SIRSA, HARYANA -125055

VERSUS

Commissioner of Customs, Kandla **.... Respondent**
Custom House, First Floor,
Old High Court Road, Navrangpura,
Ahmedabad, Gujarat -380009

CORAM:

HON'BLE DR. AJAYA KRISHNA VISHVESHA, MEMBER (JUDICIAL)

DATE OF HEARING : 18.08.2025

DATE OF DECISION: 23.09.2025

FINAL ORDER NO. 10818-10819/2025

DR. AJAYA KRISHNA VISHVESHA :

These appeals are directed against the impugned order dated 26.02.2015, passed by learned Commissioner (Appeals), Customs, Ahmedabad through which the learned Commissioner rejected the appeals filed by the appellant and upheld the order passed by the Adjudicating Authority.

2. The facts of the case in brief, are that the appellant had filed refund claims in terms of Notification No. 102/2007-Cus. Dated 14.09.2007 claiming refund of 4% SAD paid by them on the goods i.e. different types of timber imported and subsequently sold by them on payment of VAT/CST. Based on intelligence, DGCEI, Ahmedabad initiated investigation into the refunds claimed by appellants and sanctioned by the proper officer, including sanctioning Order-in-Original No. KDL/AC/GAR/2209/REF/2009 dated 04.12.2009, through which refund of Rs. 6,71,558/- was claimed, but Rs.4,88,584/- was sanctioned. In addition to sanction of refund of Rs. 4,88,584/-, Rs. 1,16,744/- has been re-credited in the DEPB License/ Release Advice. Investigation revealed that the appellant, instead of submitting the actual copies of invoices, prepared another set of invoices whose CBM more or less matched with the CBM shown in the Bill of Entry and endorsed the number of that Bill of Entry on the face of the invoices and submitted the same with refund claim. In most of the cases, the selling price is far less than the landing cost of the timber. Investigation revealed that appellant had submitted the sales Invoices with the refund claim pertaining to sale of timber which was imported under some other Bills of Entry or purchased locally due to which it was observed that correlation of goods was not possible. It was alleged that in order to obtain the refund,

they have shown sale of timber logs and submitted the same with the refund claim. The comparison of the invoices submitted along with the refund claim and the documents received from the buyers revealed that they have prepared another set of invoices in order to get the refund sanctioned. Accordingly, a Show Cause Notice dated 07.03.2012 was issued to the appellant. Adjudicating Authority passed the Order-in-Original dated 24.03.2014 under which he ordered recovery of erroneously granted refund amounting to Rs.4,88,584/- under section 28 (1) along with interest as per Section 28AB, ordered recovery of amount of Rs.1,16,744/- granted as re-credit in DEPB scrips, being the duty foregone on the timber imported utilizing DEPB scrips in terms of Notification No. 45/2002-Customs dated 22.04.2002 as amended, under section 28 (1) and imposed penalty of Rs. 6,05,328/-under section 114A.

2.1 Being aggrieved, the appellants preferred appeals before learned Commissioner (Appeals), Customs, Ahmedabad. The learned Commissioner, after going through the submissions of learned Counsel for the appellants observed that the appellant had claimed refund of 4% Additional duty (SAD) paid at the time of import of timber incorrectly by submitting sales invoices of timber, imported under Bills of Entry other than the Bills of Entry for which they have claimed the refund. The investigation carried out by DGCEI and also the findings of the lower Authority clearly indicate that the documents were forged/fabricated by the petitioner in order to claim the refund and that there was no co-relation in the quantity in terms of CBM and number of pieces. Investigations reveal that in most of the cases, the selling price is far less than the landing cost of the timber. They prepared duplicate set of invoices at the time of filing refund claim to co-relate the same with the corresponding Bills of Entries in order to claim the refund of 4% SAD paid at the time of importation of timber and to fulfil the conditions

laid in Notification No.102/2007-Cus. dated 14.09.2007 for claiming the refund. The lower authority has correctly denied benefit of Notification No. 102/2007 dated 14.09.2007 to the appellants. The appellant has not brought on record any fresh evidence to prove their contention. He held that above mentioned order passed by the lower Authority is proper and legal and does not require any interference. With these observations, the learned Commissioner (Appeals) upheld the order passed by the Adjudicating Authority and dismissed the appeals. Feeling aggrieved from the impugned order dated 26.02.2015, passed by learned Commissioner (Appeals), the present appeals have been filed before this Tribunal.]

3. In the grounds of appeal, the learned Counsel for the appellant has submitted that the impugned order passed by learned Commissioner (Appeals) is incorrect on facts as well as on law. The Show Cause Notice dated 07.03.2012 has been issued by the Additional Director, Directorate General of Central Excise Intelligence, Ahmedabad Zonal Unit, Ahmedabad under Section 28 of the Customs Act, 1962. The show cause notice dated 07.03.2012 issued by the DGCEI is without jurisdiction because it has not been issued by the 'proper officer', as defined in Section 2(34) of the Customs Act, 1962 in view of judgment of Hon'ble Supreme Court in **Commissioner of Customs v. Sayed Ali & Anr**. – 2011 (265) ELT 17 (SC).

3.1 Learned Counsel for the appellant also submitted that in the present case, the department is not disputing the refund of 4% SAD on merit except for the reasons mentioned in the Show Cause Notice that the appellants have sold the imported timber logs after having undertaken the operation of sawing and cutting on those logs. This contention of the department is not sustainable because this Tribunal in the case of **Agarwalla Timbers Pvt.**

Limited and Ors vs. CC, Kandla - 2010-TIOL-1378-CESTAT-AHM, has allowed refund of SAD under Notification 102/2007-Cus. even in cases where timber logs were imported and were sold subsequently after being sawn. The said decision of the Tribunal has been affirmed by Hon'ble Gujarat High Court vide judgment dated 07.07.2011 in Tax Appeal No. 86 of 2011. Therefore, on merits, the appellants are entitled for the refund of 4% SAD.

3.2 The learned Counsel for the appellants also submitted that they are eligible for refund under Notification No. 102/2007-Cus. The benefit of notification is available on merits to the Appellants because the goods imported have already been sold into domestic market on payment of VAT/ Sales Tax. The appellants have fulfilled all the conditions of the Notification No. 102/2007-Cus. The appellants have paid all duties, including the said additional duty of customs (SAD) leviable thereon, as applicable, at the time of importation of the goods. The Appellants are not registered dealer thus not authorized to issue Cenvatable invoices. Secondly, the invoices issued by the Appellants, do not indicate the SAD paid. Thus, the question of buyer availing the credit does not arise. The appellants have filed refund claim within one year from the date of payment of the said additional duty of Customs (SAD). The appellants have paid appropriate VAT or Sales Tax at the time of sale of goods and the appellants have submitted all the documents required to be submitted as per the notification. Therefore, the appellants are eligible for refund of SAD paid at the time of import of goods when the goods have in fact been subsequently sold. Thus, the impugned Show Cause Notice, proposing to deny the benefit of Notification No. 102/2009-Cus. and the impugned order confirming the proposals of the Show Cause Notice are liable to be set aside.

3.3 Learned Counsel for the appellant submitted that Notification No. 102/2009-Cus grants exemption from SAD to those goods that have been imported for subsequent sale. The notification stipulates that the goods must be imported for subsequent sale and it does not matter whether any process has taken place or not. If this is so, then the benefit of said notification will be available. It is not a case of the department that the goods that have been imported have not been sold. The department's case is that even though the imported goods have been sold, the benefit will not be available because some process has been carried out on the imported goods. This observation of the department is unfounded since this condition is not in the said notification. With these submissions, learned Counsel for the appellant prays that the impugned order may be set-aside and the appeals may be allowed.

4. Learned AR for the Revenue reiterates the findings of the impugned order and submits that the appellant had not mentioned the Bill of Entry number and endorsement at the time of clearance of goods. Therefore, the appellant is not in a position to corelate the sales invoices with the Bill of Entry. They put Bill of Entry on the forged invoices at the time of filing of refund claim. He prays that the appeals filed by appellants are devoid of merit and may be rejected.

5. After hearing both the sides and perusal of record, I find that in these appeals, the question to be decided before this Tribunal is whether the appellants are entitled to get benefit of Notification No. 102/2007-Cus dated 14.09.2007 as amended. For ready reference, it will be proper to reproduce the provisions of the above mentioned notification which are as follows:-

> **"Exemption from Special CVD to all goods imported for subsequent sale when VAT/Sales Tax paid by importer.**

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the goods falling within the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), when imported into India for subsequent sale, from the whole of the additional duty of customs leviable thereon under sub-section (5) of section 3 of the said Customs Tariff Act (hereinafter referred to as the said additional duty).

2. The exemption contained in this notification shall be given effect if the following conditions are fulfilled :

(a) the importer of the said goods shall pay all duties, including the said additional duty of customs leviable thereon, as applicable, at the time of importation of the goods;

(b) the importer, while issuing the invoice for sale of the said goods, shall specifically indicate in the invoice that in respect of the goods covered therein, no credit of the additional duty of customs levied under sub-section (5) of section 3 of the Customs Tariff Act, 1975 shall be admissible;

(c) the importer shall file a claim for refund of the said additional duty of customs paid on the imported goods with the jurisdictional customs officer;

(d) the importer shall pay on sale of the said goods, appropriate sales tax or value added tax, as the case may be;

(e) the importer shall, *inter alia*, provide copies of the following documents alongwith the refund claim :

(i) document evidencing payment of the said additional duty;

(ii) invoices of sale of the imported goods in respect of which refund of the said additional duty is claimed;

(iii) documents evidencing payment of appropriate sales tax or value added tax, as the case may be, by the importer, on sale of such imported goods.

3. The jurisdictional customs officer shall sanction the refund on satisfying himself that the conditions referred to in para 2 above, are fulfilled.**"**

The Adjudicating Authority and the learned Commissioner (Appeals) has denied the benefit of above mentioned notification to the appellant on the ground mentioned in para-11 of the impugned order. The learned Commissioner (Appeals) has concluded that the appellant had claimed refund of 4% Additional duty (SAD) paid at the time of import of timber incorrectly by submitting sales invoices of timber imported under Bills of Entry other than the Bills of Entry for which they have claimed the refund. Accordingly to the learned Commissioner, the investigation carried out by

DGCEI and also the findings of the lower authority clearly indicate that the documents were forged/fabricated by the petitioner in order to claim the refund and that there was no co-relation in the quantity in terms of CBM and number of pieces. According to him, investigations reveal that in most of the cases, the selling price is far less than the landing cost of the timber and they prepared duplicate set of invoices at the time of filing the refund claim to co-relate the same with the corresponding Bills of Entries in order to claim the refund of 4% SAD paid at the time of importation of timber and to fulfil the conditions laid down in Notification No. 102/2007-Cus. dated 14.09.2007 for claiming the refund. He also concluded that the lower authority has correctly denied benefit of Notification No. 102/2007 dated 14.09.2007 and he fully agree with the findings of the lower authority. The appellant has not brought on record any fresh evidence to prove their contention. Therefore, he held that the order passed by lower authority is proper and legal and does not require any interference.

5.1 I do not agree with the above findings and conclusions arrived at by the learned Commissioner. I am of the view that appellants are entitled to exemption Notification No. 102/2007-Cus. dated 14.09.2007 even though timber logs were sold after being cut and sawn. In **Santosh Timber Trading Company Limited, Naresh Aggarwal** vs. **Commissioner of Customs, Kandla** – 2024 (3) TMI 1110 -CESTAT Ahmedabad, the Tribunal has observed that the primary objection raised in the instant case is that the appellants have sold the timber after cutting and sawing. This issue has specifically covered by the decision of Hon'ble Apex Court in the case of **Variety Lumbers** – 2018 (360) ELT 790 (SC) wherein the Hon'ble Apex Court has observed as follows:-

> **"**We have heard the Learned Counsels for appellant-Revenue. The issue turns on an interpretation of the Notification dated 14-9-2007 which contemplates refund of

additional duty of Customs paid by the importer of goods under Section 3(5) of the Customs Tariff Act, 1975. The notification in the main part contemplates that the import must be for the purpose of subsequent sale and is *inter alia* subject to the condition that in the invoice issued in respect of the goods sold (said goods) it is mentioned that credit of the additional duty of Customs levied under sub-section (5) of Section 3 of the Customs Tariff Act, 1975 is not admissible.

2. The Learned Counsel for the appellant-Revenue has sought to dislodge the view taken by the Customs, Excise and Service Tax Appellate Tribunal and the High Court by contending that the subsequent sale must be in the same form in which the goods were received on import. The contention advanced on behalf of the appellant-Revenue is not supported by a plain reading of the exemption notification which even if construed in the strictest terms does not permit such a view to be taken. That apart, the materials on record clearly shows that for purpose of transit of logs, the same necessarily had be reduced in size due to conditions imposed by the State for transport/movement of timber. The said fact itself would belie the stand of the Revenue. We, therefore, take the view that a mere conversion of imported logs in the Sawn Timber without loss of identity of the original product would not deprive the importer of the benefit of the exemption notification.

3. The appeals of the Revenue, therefore, are dismissed. The orders of the Tribunal and the High Court are affirmed.**"**

5.2 Further, in **Hanuman Timber Company vs. Commissioner of Customs, Visakhapatnam** – 2016 (12) TMI 1367 -CESTAT Hyderabad, the Tribunal has held that the goods being timber logs, they are sold by their quantity and not by their number. When the department has no dispute that the entire quantity imported has been sold by the sales invoices produced, they ought to correctly state how the goods in sales invoice varies from the description in packing list if it is a ground to reject refund. The appellants have presently put forward the contention that dimensions shown in the sales invoices may differ for the reason that the logs are cut to facilitate transportation. Similar issue when logs were cut to facilitate transportation was considered by the Tribunal in the case of **Gayatri Timber Pvt. Limited.** The Tribunal in the said case relied upon the judgment passed by Hon'ble High Court of Gujarat in the case of **Variety Lumbers Pvt. Limited** and held the issue in favour of the assessee. The Hon'ble Gujarat High Court in the case **Commissioner of Customs** vs. **Variety Lumbers Pvt. Limited** – 2014 (302) ELT 519 (Guj.) that by cutting round logs imported and sold in small pieces by sawing, no new product

came into existence and identity of article did not undergo any fundamental change. Respondents were under the law obliged to reduce the length of the timber before its transportation. RTO authorities would not permit transportation of timber longer than 40feet. Further, Sales Tax/VAT has been paid for sales in local market and conditions of Notification No.102/2007-Cus have not been breached.

5.3 In **M/s. Agarwalla Timbers Pvt. Limited** vs. **CC, Kandla** – 2010-TIOL-1378-CESTAT-AHM the imported timber logs were subjected to sawing and sold as sawn timber in different sizes and length. Refund was denied on the ground that the sawn timber and timber logs are different. It was held that department has not established that the sawn timber, after the process undertaken by the appellants has become a new commodity with distinct, name, character and use. The contention raised by the Revenue that imported goods fall under Heading 44.03 and sawn timber falls under Heading 44.07 of Customs Tariff Act and this establishes that these two are not the same goods, is incorrect and refund of additional duty cannot be denied to the appellants.

5.4 In **Chowgule & Company Pvt. Limited vs. Commissioner of Customs & C. Ex.** – 2014 (306) ELT 326 (Tri. LB) in which the Tribunal has held that non-declaration of Special Additional Duty (SAD) in commercial invoice is affirmation that no Cenvat credit thereof would be available. For taking credit, such an invoice is ineligible under Rule 92 of Cenvat Credit Rules, 2004. This satisfied the condition in para 2(b) of Notification No 102/2007-Cus., requiring endorsement on invoice that no credit was admissible. Endorsement on invoice was merely a procedural requirement and its object could be achieved when duty element itself was not specified in the invoice. Hence, mere non-making of endorsement could not

undermine the purpose of exemption. The Tribunal further held that trader, who paid SAD on imported goods and discharged VAT/ST liability on subsequent sale and who issued commercial invoices without indicating any details of duty paid was entitled to benefit of exemption under Notification No. 102/2007-Cus notwithstanding the fact that that he made no endorsement that credit of duty is not admissible on commercial invoices, subject to satisfaction of other conditions stipulated therein.

5.5 In the case of **Commissioner of Customs (Sea Export), Chennai** vs. **Shri Ram Impex India (P) Limited** – 2014 (300) ELT 126 (Tri. Chennai), the Tribunal held that one of the conditions of the said notification is that the sale invoice of the imported goods in respect of which refund of the additional duty is claimed has to be produced. In the present case, the dispute relates to the variation of the description of the goods. It is revealed from the impugned order that vide Bill of Entry No. 532821, dated 07.06.2010, the goods were "Tin Plate or Misprints, Sheets waste/secondary and rejected" whereas in the sale invoice there is a description of "Tin Sheet, W/W or Sheets or "Tin plates defects". Similarly, the description in the Bill of Entry No. 534622, dated 09.06.2010 was "Tin Plate Plain or Misprints Sheets-Waste/Waste Secondary & Rejected" but the sale invoice shows the description "Tin Plate Misprints sheet or Tin Plate defective". The learned Counsel submitted that "Tin Sheet W/W" indicates Tin Sheet Waste/Waste as mentioned in the Policy. In our considered view such a difference of the description 'rejected' or 'defects' cannot disentitle the benefit of exemption notification. The other contention of the learned AR that the respondents had not mentioned the Bill of Entry number in the sale invoice, we do not find any force in the submission. There is no condition in the Notification that the Bill of Entry number should be mentioned in the sale invoice.

5.6 Learned Counsel for the appellant has categorically submitted before the Bench that the appellants have complied and fulfilled all the other conditions mentioned in the Notification No. 102/2007-Cus dated 14.09.2007, namely:-

(i) The appellants have paid all duties, including the said additional duty of customs leviable thereon, as applicable, at the time of importation of the goods.

(ii) Appellants are not a registered dealer thus not authorized to issue Cenvatable invoices. Secondly, the invoices issued by the Appellants, do not indicate the SAD paid. Thus, question of buyer availing the credit does not arise;

(iii) The appellants have filed the claim for refund within one year from the date of payment of the said additional duty of customs;

(iv) The appellants have paid appropriate VAT or Sales Tax at the time of sale of goods;

(v) The appellants have submitted all the documents required to be submitted as per the notification.

5.7 There is no doubt that Notification No. 102/2007-Cus dated 14.09.2007 grants exemption of SAD to those goods that have been imported for subsequent sale. It does not matter whether any process has taken place or not for the notification to be applicable. The main requirement to be satisfied is "whether the goods have been imported for subsequent sale". If this requirement is fulfilled, then the benefit of notification shall be available subject to the fulfillment of other conditions mentioned in the said notification. I am of the view that difference in the number of pieces in the Bill of Entry and in the invoices and the absence of

endorsement of the same are not relevant criteria for denying refund claim to the appellant.

I am also of the view that minor discrepancies with respect to the description of the goods would not disentitle the appellant from refund as held in **Commissioner of Customs (Sea Export), Chennai** vs. **Shri Ram Impex India (P) Limited** (supra). Benefit of above notification cannot be denied on the ground that declaration has not been made indicating no credit of additional duty levied under Section 3(5) of the Customs Tariff Act, 1975 as per para 2(b) of the notification. It is not established that the appellant has submitted any forged invoices and lorry receipts cannot be relied upon to contend that the appellant has made forged documents. Therefore, the appellants, in my view, are entitled for exemption notification.

5.8 In view of above discussion and observations, I have come to the conclusion that the learned Commissioner (Appeals) and the Adjudicating Authority have erred in denying the benefit of Notification No. 102/2007-Cus. Dated 14.09.2007 to the appellant in the light of the law laid-down by Hon'ble Apex Court and Hon'ble Gujarat High Court as mentioned above. I am of the view that the appellants are entitled to get the benefit of Notification No. 102/2007-Cus dated 14.09.2007. I am also of the view that the order imposing penalty on the appellant Shri Anil Aggarwal, authorised signatory is also not sustainable because when the appellant firm is entitled to refund claimed by them, then there appears to be no reason to impose penalty upon the appellant Shri Anil Aggarwal.

6. In my view, the appeals are liable to be allowed whereas the impugned order passed by learned Commissioner (Appeals) and Order-in-Original passed by the Adjudicating Authority are liable to be set-aside. Consequently, the appeals are allowed and the impugned order is set-aside.

(Order pronounced in the open court 23.09.2025*)*

(Dr. Ajaya Krishna Vishvesha)
Member (Judicial)

KL