



## ***Aadrikaa Law Offices (ALO)- IDT Tax / Arbitration / Litigation***

**Date: 02.09.2025**

### **CESTAT Kolkata said that the extended limitation period was not invocable**



*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](mailto:intelconsul@gmail.com) or on his Mobile +91-9999005379.*

In a significant ruling, the Customs, Excise, and Service Tax Appellate Tribunal (CESTAT), Eastern Zonal Bench, Kolkata, has set aside the demand for differential duty, redemption fine, and penalty against M/s. Thales India Private Limited. The case revolved around the classification of imported goods and the invocation of the extended period of limitation under the Customs Act, 1962. This decision highlights the importance of adhering to statutory timelines and the implications of procedural lapses in customs adjudication.

#### **Background of the Case**

The dispute arose when Thales India imported "Digital Axle Counter," a safety and traffic control equipment for railways, under Customs Tariff Entry No. 8608 0030, attracting IGST at 5%. However, the Directorate of Revenue Intelligence (DRI) later contended that the correct classification was under Customs Tariff Entry No. 8530 1010, which attracts IGST at 28%. This reclassification led to a demand for differential duty amounting to Rs. 84,75,878/-, along with a redemption fine of Rs. 85,00,000/- and a penalty equivalent to the duty payable.

## Key Developments

### 1. Initial Import and Investigation:

- The Bill of Entry was filed on 02.08.2017, and the goods were cleared for home consumption under the declared classification.
- The DRI initiated an investigation in February 2019, and Thales India cooperated by providing necessary documents and agreeing to the reclassification.

### 2. Payment of Duty:

- On 24.10.2019, Thales India paid the reassessed duty amount of Rs. 47,94,651/- based on the revised classification.

### 3. Show Cause Notice:

- Despite the payment, a Show Cause Notice was issued on 29.12.2020, invoking the extended period of limitation to demand differential duty.

## Tribunal's Observations and Ruling

### 1. Knowledge of Classification:

- The classification of goods was already in the knowledge of the Department from the date of filing the Bill of Entry (02.08.2017).

### 2. No Suppression or Intent to Evade Duty:

- The appellant had cooperated with the investigation and voluntarily paid the reassessed duty. There was no evidence of suppression of facts or intent to evade duty.

### 3. Extended Limitation Period Not Applicable:

- The Show Cause Notice was issued beyond the normal limitation period, and the extended period could not be invoked in the absence of suppression or fraudulent intent.

### 4. Demand, Fine, and Penalty Set Aside:

- The Tribunal held that the entire demand was barred by limitation, and consequently, no redemption fine or penalty could be imposed.

## Implications of the Ruling

This judgment underscores the importance of adhering to statutory timelines in customs proceedings. It also reinforces the principle that extended limitation periods cannot be invoked arbitrarily without evidence of suppression or fraudulent intent. For importers, this ruling serves as a reminder to maintain transparency and cooperate with authorities during investigations.

## Conclusion

The Tribunal's decision to set aside the demand and penalties against Thales India is a landmark ruling that upholds procedural fairness in customs adjudication. It provides relief to importers facing similar disputes and emphasizes the need for authorities to act within the framework of the law. As businesses navigate the complexities of customs regulations, this case serves as a valuable precedent for ensuring justice and accountability.

**Source: CESTAT Kolkata**

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**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
EASTERN ZONAL BENCH : KOLKATA**

REGIONAL BENCH – COURT NO. 1

**Customs Appeal No. 75663 of 2021**

(Arising out of Order-in-Original No. KOL/CUS/PR.COMMISSIONER/AP/ADMN/05/2021 dated 16.03.2021 passed by the Principal Commissioner of Customs (Airport & A.C.C.), Custom House, 15/1, Strand Road, Kolkata – 700 001)

**M/s. Thales India Private Limited** : **Appellant**  
Berger Tower, 3<sup>rd</sup> to 8<sup>th</sup> Floor,  
Plot No. C-001A/2, Sector-16B, Noida,  
Uttar Pradesh – 201 301

**VERSUS**

**Principal Commissioner of Customs** : **Respondent**  
**(Airport & A.C.C.)**  
Custom House, 15/1, Strand Road,  
Kolkata – 700 001

**APPEARANCE:**

Shri Jitin Singhal, Advocate for the Appellant

Shri Subrata Debnath, Authorized Representative  
Shri Sameer Chitkara, Authorized Representative  
for the Respondent

**CORAM:**

**HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)**  
**HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 75313 / 2025**

DATE OF HEARING / DECISION: 30.01.2025

**ORDER: [PER SHRI ASHOK JINDAL]**

The appellant is in appeal against the impugned order demanding differential duty of Rs.84,75,878/- and imposing redemption fine of Rs.85,00,000/- and penalty equivalent to duty payable by the appellant under Section 114A of the Customs Act, 1962.

2. The facts of the case are that the appellant, at the time of importation of the goods, namely, "Digital Axle Counter" which is a safety and traffic control equipment for railway, had mis-declared the goods

under Customs Tariff Entry No. 8608 0030 and paid I.G.S.T. at the rate of 5% by wrongly availing Sl. No. 242 of Schedule I of Notification No. 01/2017-IT (Rate) dated 28.06.2017 whereas the correct classification of the goods was under Customs Tariff Entry No. 8530 1010 which attracts I.G.S.T. at the rate of 28% under Sl. No. 156 of Schedule IV of Notification No. 01/2017-IT (Rate) dated 28.06.2017. Thus, the appellant had short paid Customs duty amounting to Rs.84,75,878/-.

2.1. The Bill of Entry was filed on 02.08.2017 and the goods were cleared for home consumption by giving out-of-charge. On 15.02.2019, the Directorate of Revenue Intelligence (DRI) issued a letter to the appellant seeking details and documents pertaining to the goods imported by them. In response, the appellant provided the said details on 04.03.2019 and 13.03.2019. Thereafter, on 04.04.2019, 26.04.2019 and 20.09.2019, summons were issued and statements were also recorded.

2.2. On 16.10.2019, the appellant agreed to the classification sought by the DRI and did not want to litigate the matter. They sought permission to amend the Bill of Entry and upon approval, the goods were re-classified under CTH 8530 1010 and by way of re-assessment, the total liability due of Rs.47,94,651/- at the rate of 18% I.G.S.T. was paid on 24.10.2019.

3. Thereafter, a Show Cause Notice was issued to the appellant on 29.12.2020 demanding differential duty thereof.

3.1. The matter was adjudicated and the demand was confirmed, by way of the impugned order dated 10.03.2021.

4. Aggrieved from the said order, the appellant is before us.

5. The Ld. Counsel appearing on behalf of the appellant submits that as the Show Cause Notice dated 29.12.2020 is barred by limitation on the ground that they had filed the Bill of Entry on 02.08.2017 by declaring the classification under CTH 8608 0030, which was allowed clearance for home consumption by the ld. adjudicating authority and that thereafter, after completion of the investigation, the appellant had also agreed with the classification sought by the DRI and paid differential duty on 24.10.2019. In view thereof, it is his submission that the extended period of limitation is not invocable in this case and consequently, whole of the demand is barred by limitation.

6. On the other hand, the Ld. Authorized Representative of the Revenue reiterated the findings in the impugned order.

7. Heard the parties and considered their submissions.

8. We find that in this case, the Bill of Entry was filed on 02.08.2017 by declaring the goods under CTH 8608 0030 which was allowed to be cleared under the same Chapter Heading for home consumption. Therefore, we find that the classification of the goods was in the knowledge of the Department itself from 02.08.2017. Although after initiation of proceedings, the appellant agreed to the classification sought by the DRI and paid the duty on 24.10.2019, the Show Cause Notice was issued on 29.12.2020 by invoking the extended period of limitation. In this case, there is no suppression of fact or mis-declaration with intent

to evade payment of duty on the part of the appellant. In these circumstances, we hold that the extended period of limitation is not invokable.

8.1. Admittedly, the impugned Show Cause Notice has been issued beyond the normal period of limitation. Accordingly, we hold that whole of the demand is barred by limitation. Thus, the impugned demand is set aside by holding that the extended period of limitation is not invokable in this case.

9. Consequently, no redemption fine or penalty can be demanded from the appellant.

10. In these terms, we set aside the impugned order and allow the appeal with consequential relief, if any, as per law.

(Operative part of the order was pronounced in open court)

Sd/-

**(ASHOK JINDAL)**  
MEMBER (JUDICIAL)

Sd/-

**(K. ANPAZHAKAN)**  
MEMBER (TECHNICAL)