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CESTAT Kolkata provides clarity on the classification of Aluminium Formwork under Customs Tariff



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.

In a significant ruling, the Customs, Excise, and Service Tax Appellate Tribunal (CESTAT), Eastern Zonal Bench, Kolkata, has set aside the demand of differential duty against M/s. Unimarkmirania Projects LLP in a case concerning the classification of imported Aluminium Formwork Structures with Accessories. The decision, delivered on September 12, 2025, brings clarity to the classification of such goods under the Customs Tariff Act, 1975, and the applicability of exemption benefits under Customs Notification No. 152/2009.

Background of the Case

The dispute arose when M/s. Unimarkmirania Projects LLP imported Aluminium Formwork Structures with Accessories from the Republic of Korea under Bill of Entry No. 4382970 dated August 6, 2019. The importer classified the goods under Customs Tariff Item (CTI) 76109010 and claimed exemption benefits under Sl. No. 610 of Notification No. 152/2009, as amended. The Revenue, however, contested this classification, arguing that the goods should be classified under CTI 84806000 and that the exemption benefit should be availed under Sl. No. 780 of the same notification.

The Revenue issued a Show Cause Notice proposing to reclassify the goods and recover differential duty, along with interest and penalties. The adjudicating authority upheld the Revenue's stance, and the

Commissioner of Customs (Appeals) affirmed this decision, though the penalty was dropped. Aggrieved, the appellant approached the Tribunal.

Key Arguments and Tribunal's Observations

- 1. Classification of Goods:** The appellant argued that the imported Aluminium Formwork Structures were correctly classified under CTI 76109010, as they are temporary structures used in construction to shape and support concrete until it hardens. The Tribunal agreed, citing the Explanatory Notes under the Harmonized System of Nomenclature (HSN), which support the classification of such goods under Chapter 76.
- 2. Self-Assessment and Demand Notice:** The Tribunal noted that the Bills of Entry were self-assessed by the appellant, and the Revenue had not challenged this assessment before issuing the demand notice. Citing the Supreme Court's decision in the case of ITC Ltd., the Tribunal emphasized that any modification to self-assessment must be done through appropriate proceedings before raising a demand.
- 3. Precedents:** The Tribunal relied on its earlier decisions in similar cases, including *M/s. Alcove Construction Pvt. Ltd. v. Commissioner of Customs (Port), Kolkata* and *Vijay Nirman Company Pvt. Ltd. v. Pr. Commissioner of Customs, Visakhapatnam*. These rulings had upheld the classification of Aluminium Formwork under CTI 7610 and granted exemption benefits under Sl. No. 610 of Notification No. 152/2009.
- 4. Exemption Notification:** The Tribunal observed that the goods met the criteria for exemption under Sl. No. 610 of Notification No. 152/2009, as they were imported from the Republic of Korea and classified under CTI 7610. The Revenue's argument that the goods were more appropriately classified as "moulds" under Chapter 84 was rejected.

Final Ruling

The Tribunal set aside the demand of differential duty amounting to Rs. 19,48,425/- and upheld the appellant's classification of the goods under CTI 76109010. The exemption benefit under Notification No. 152/2009 was deemed applicable. The Tribunal also upheld the dropping of penalties by the Commissioner (Appeals).

Implications of the Ruling

This decision reinforces the importance of adhering to established classification principles and the procedural requirement of challenging self-assessments before issuing demand notices. It also provides clarity on the classification of Aluminium Formwork Structures, which are widely used in the construction industry.

The ruling is a significant win for importers, as it underscores the need for the Revenue to follow due process and ensures that exemptions under trade agreements are not denied arbitrarily. It also highlights the role of judicial precedents in resolving classification disputes.

Conclusion

The Tribunal's decision in favor of *M/s. Unimarkmirania Projects LLP* is a landmark judgment that will likely influence similar disputes in the future. By upholding the correct classification and granting the exemption benefit, the Tribunal has ensured that importers are not unfairly burdened with additional duties. This case serves as a reminder of the importance of accurate classification and the procedural safeguards available to importers under Indian customs law.

Source: CESTAT Kolkata

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

REGIONAL BENCH – COURT NO. 2

Customs Appeal No. 76098 of 2023

(Arising out of Order-in-Appeal No. KOL/CUS/PORT/KS/350/2023 dated 02.05.2023 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Unimarkmirania Projects LLP

Shakespeare Sarani, 14th Floor,
Kolkata – 700 017

: Appellant

VERSUS

Commissioner of Customs (Port)

Custom House, Kolkata, 15/1, Strand Road,
Kolkata – 700 001

: Respondent

APPEARANCE:

Shri Rites Goel, Advocate, for the Appellant

Shri Tariq Sulaiman, Authorized Representative, for the Respondent

CORAM:

HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)

HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 77392 / 2025

DATE OF HEARING: 01.09.2025

DATE OF DECISION: 12.09.2025

ORDER: [PER SHRI K. ANPAZHAKAN]

The present appeal has been filed challenging the Order-in-Appeal No. KOL/CUS/PORT/KS/350/2023 dated 02.05.2023 passed by the Ld. Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001, whereby the Id. lower appellate authority has upheld the Order-in-Original No. KOL/CUS/PORT/JC/16/2021 dated 27.04.2021.

2. Briefly stated, the facts of the case are that the appellant imported one consignment of "Aluminium

Formwork Structure with Accessories" under Bill of Entry No. 4382970 dated 06.08.2019 for home consumption classifying the goods under Customs Tariff Item No. 76109010 claiming exemption benefit in terms of Notification No. 152/2009-Customs [Sl.No. 610], as amended by Notification No.66/2016-Customs dated 31.12.2016, and submitted (under e-Sanchit) certificate of Country of Origin bearing Reference Nos. K001-19-0521617 dated 15.07.2019 issued by the Korean Chamber of Commerce and Industries. The importer paid IGST @18% by classifying the goods imported under Sl. No.-271 of Schedule III of IGST Notification No. 01/2017 dated 28.06.2017.

3. The Revenue challenged the declared classification under Tariff Item No. 76109010 of the imported goods covered under the said Bills of Entry and claimed that the same were appropriately classifiable under Tariff Item No. 84806000 and eligible for Duty exemption benefit under Sl.No.780 instead of Sl. No. 610 of Customs Notification No.152/2009. It was further claimed by the Revenue that the applicable rate of IGST would be 18% under Sl.No.-367 instead of Sl.No.-271 of Schedule -III of IGST Notification No. 01/2017 dated 28.06.2017.

4. Subsequently, a Show Cause Notice No. S2-20/2020 dated 28.09.2020 along with a Corrigendum dated 11.12.2020 was issued to the appellant inter alia proposing to deny the classification of the imported goods viz. Aluminium Formwork Structure with Accessories, under Tariff Item No. 76109010 as claimed and to re-classify the same under Tariff Item No. 84806000. Thus, the said Notice sought to deny the exemption benefit provided under

Sl. No. 610 of Customs Notification No. 152/2009 on the ground that the said import consignment was eligible for exemption under Sl. No. 780 of the aforesaid Notification. Accordingly, differential duty under Section 28(1) of the Act, along with interest and penalty, was proposed to be recovered by way of the impugned Show Cause Notice.

4.1. The appellant contested the aforesaid show cause proceedings and submitted several replies together with supporting documents. The appellant also attended personal hearing before the adjudicating authority and made further submissions in its defence.

5. Vide an Order-in-Original dated 27.04.2021 the Joint Commissioner of Customs (Port), Special Investigation Branch, Custom House, Kolkata confirmed the proposed demands against the appellant, along with interest and penalty, and denied exemption benefit to the goods in question under Sl. No. 610 of Notification No. 152/2009-Cus dated 31.12.2009, as amended.

6. The appellant challenged the Order-in-Original dated 27.04.2021 before the Ld. Commissioner of Customs (Appeals), Kolkata, who, vide the impugned order dated 02.05.2023, has affirmed the said Order-in-Original passed by the Id. lower adjudicating authority, but dropped the penalty imposed upon the appellant under Section 112(a)(ii) of the Customs Act, 1962.

6.1. Aggrieved by the confirmation of the demand against them, the appellant has preferred this appeal.

7. At the outset, the Ld. Counsel appearing on behalf of the appellant submitted that the issue involved in the matter is no longer res integra as the same stands decided by the Division Bench of this Tribunal in the case of *M/s. Alcove Construction Pvt. Ltd. V. Commissioner of Customs (Port), Kolkata [Final Order No. 76984 of 2024 dated 12.09.2024 in Customs Appeal No. 76061 of 2023 – CESTAT, Kolkata]*, since the Revenue has not challenged the assessment under the Bill of Entry before issuance of the demand notice. Accordingly, he prays that the impugned order be set aside and their appeal be allowed.

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

9. Heard both sides and perused the appeal records.

10. It is a fact that the present case pertains to import of a consignment of Aluminium Formwork Structure with Accessories made of base metal - Aluminium from the Republic of Korea under Bill of Entry No. 4382970 dated 06.08.2019. The appellant self-assessed its liabilities and completed the import formalities by classifying the said consignment under tariff entry 7610 90 10 of the First Schedule to the Customs Tariff Act, 1975 and claiming exemption benefit under Sl. No. 610 of Notification No. 152/2009-Cus dated 31.12.2009, as amended by Notification No. 66/2016-Cus dated 31.12.2016, which specified the effective rate of duty for specified goods when imported into India from the Republic of Korea. The appellant paid Integrated Goods and Service Tax by classifying the said goods under Sl. No.

271 of Schedule III of IGST Notification No. 01/2017 dated 28.06.2017. It is also the appellant's contention that the present proceedings are unsustainable on the ground that the Revenue has not challenged the assessment under the impugned Bill of Entry, which the Revenue was required to do before issuance of the demand notice.

11. We find that a similar issue has already been examined by this Tribunal in the case of *M/s. Alcove Construction Pvt. Ltd. v. Commissioner of Customs (Port), Kolkata [Final Order No. 76984 of 2024 dated 12.09.2024 in Customs Appeal No. 76061 of 2023 – CESTAT, Kolkata]*, wherein it was observed as under:-

"7. From the Explanatory Notes under HSN (copy of which was provided by the appellant), we find that under 7308.40, "Equipment for scaffolding, shuttering, propping or pit-propping" are given, under Chapter 73, pertaining to structures of iron or steel. The Explanatory Notes to heading 76.10 state that the Explanatory Note to heading 73.08 apply, mutatis mutandis, to the heading under 76.10.

7.1. When both of these are read together, it would mean that when the goods viz., Aluminium structures in this case, are similar to equipment for scaffolding, shuttering, propping or pit-propping, the same would get classified under heading 76.10 only. Therefore, we hold that the appellant was correct in classifying the impugned goods under CTH 7610 90 10.

*8. We also observe that this is a case where the Bills-of-Entry were self-assessed by the appellant. The Revenue has not challenged the assessment under these Bills-of-Entry, which they are required to do before they come up with their demand notice. This Tribunal in the case of *Shri Rajib Saha v. Commissioner of Customs (Prev.), Shillong [Final Order Nos. 76465-76466 of 2023 dated 24.08.2023 in Customs Appeal No. 75278 of 2016 & anr. (CESTAT, Kolkata)]* has held as under: -*

"10. We observe that the self-assessment of the Bills of Entry by the importer was not

challenged by the department. The Hon'ble Supreme Court in the case of ITC Ltd, has held as under:

47. When we consider the overall effect of the provisions prior to amendment and post-amendment under Finance Act, 2011, we are of the opinion that the claim for refund cannot be entertained unless the order of assessment or self-assessment is modified in accordance with law by taking recourse to the appropriate proceedings and it would not be within the ken of Section 27 to set aside the order of self-assessment and reassess the duty for making refund; and in case any person is aggrieved by any order which would include self- assessment, he has to get the order modified under Section 128 or under other relevant provisions of the Act.

11. We observe that the ratio of the above said decision is squarely applicable in this case. We find that the impugned order passed demanding differential duty without challenging the original assessment of the Bills of entry is not sustainable. Hence, the demand is not sustainable on this count also."

8.1. We find that the ratio laid down the above Final Order passed by this Tribunal is squarely applicable to the facts of the present case. Therefore, even on this count, we set aside the impugned order and allow the appeal."

11.1. From the above, we are of the view that the impugned proceedings are not sustainable against the appellant.

12. Furthermore, we observe that on an identical set of facts, the Tribunal at Hyderabad in the case of *Vijay Nirman Company Pvt. Ltd. v. Pr. Commissioner of Customs, Visakhapatnam [2025 (1) TMI 747 – CESTAT, Hyderabad]* has held the impugned goods to be falling under CTH 7610 and accordingly, has granted entitlement to Sl. No. 610 of the exemption

Notification No. 152/2009 dated 31.12.2009. The relevant observations of the Tribunal in the aforesaid decision are reproduced below, for ease of reference:-

"14. An AFM which essentially is a shuttering to facilitate efficient and faster casting and therefore cannot ipso facto become mould. At this juncture, it is important to understand the difference between formwork and mould. Basically, a formwork is nothing but a shutter plate/shuttering material, which is temporary structure used to shape and support freshly poured concrete until it hardens and gains sufficient strength to support itself and the formwork can be used in different areas, including building foundations, where it is used to create the shape of foundation walls, footings and piers walls and partitions, beams and columns, where it is used to shape columns, slabs, where it is used to create flat surface such as floors, roofs and bridge decks. Even though this term 'formwork' and 'mould' are often used interchangeably in construction activity, they have different meanings. While formwork is a temporary structure used to shape and hold concrete until it sets in and it basically provides support and maintains the structure during the construction process and are typically removed after concrete sets in, leaving behind the desired structure. Whereas, in case of mould, they are reusable pattern or cavity used to shape material and can make multiple copies and can be permanent also depending on the application. Therefore, while formwork is primarily used in construction to shape and support structures temporarily, the moulds are used in creating multiple copies of desired shape and design often used for casting smaller elements like decorative features or precast components. The reliance placed by the Adjudicating Authority that it is customized and cannot be used or moved to other location is also misplaced. It is nobody's case that these formworks remain even after concretes were set in and that they were not removed and kept elsewhere for a similar use at a later date, if required.

15. CTH 7610 covers, inter alia, aluminium structures and by way of example, it includes, inter alia, roofing frameworks. The roofing framework is therefore covered within CTH 7610 and therefore, it is necessary to understand what roofing framework

is and how it is different from formwork. Roofing framework refers to structural element that supports a roof and, inter alia, provides structural support and also serves as a base for roofing material. In other words, it would be permanent structure as distinct from aluminium formwork. It is here that one has to see that the heading is vast enough to cover all kinds of aluminium formwork except for clear exclusion and the example includes various types of materials and structures which are used in the construction work. It is an admitted fact that aluminium formwork has been used only in relation to construction activity and even though it is not permanently attached, it does not get excluded from the coverage under the category of aluminium structure merely on this count. Similarly, in the case of definition of mould also, the moulds are primarily for shaping various things including prefabricated construction elements of reinforced or pre-stressed concrete (window frames, parts of vaulting beams, railway sleepers, etc.), tubes, vats, paving stones, flags, chimney pots, banisters, architectural ornaments, wall, floor or roof slabs, etc. Therefore, essentially when certain things are moulded, it will produce repeated copies of the same depending on the material used for shaping and its intended use and therefore, it is a standalone mould which is used for creating such intended goods. Whereas formwork is an in situ structural support during the construction of a building or an infrastructure where essentially cement is required to be poured in the cavity supported on the either side by the formwork and where the steel material or other reinforcing material is already placed. Once the structure sets in, the entire panel can be dismantled by removing one by one and the structure will stand on its own. Merely because of this process of casting, it cannot become a mould for either making a slab or a mould for making a full structure itself. There has to be a definite item or product which can be made repeatedly by using such moulds which is not the case here. In fact HSN clearly points out that a mould is used for moulding certain materials into blanks or finished articles. Nowhere the department has pointed out any blank or article has emerged out these aluminium formworks. A complete immovable building structure cannot be called a blank or an article. The illustration also made it clear that mould would create blanks, articles, etc., including cement slabs but not the entire building or structure.

16. We also observe that the case has been made out on the basis of information and statement given by the appellant. wherein, they had, inter alia, also stated that they had paid up the differential duty in respect of 15 Bills of Entry to avoid interest burden, etc. However, in respect of remaining 5 Bills of Entry, which is the subject matter of this appeal, they are contesting that the same as they felt it is appropriately classifiable under CTH 7610 on the grounds that essential character of the goods is imparted by the aluminium and these items are useful for one time. Moreover, the suppliers have classified the item under CTH 7610 and that the custom officers have not denied the said classification, as claimed by them. Thereafter, the Adjudicating Authority, by relying on purchase contracts and statutory provisions under Chapter 76 and Chapter 84 as well as HSN explanatory notes, made an observation that since the goods are pre-designed and custom made shuttering material, it cannot be used for any other purpose. Therefore, in view of the HSN explanatory note, which clearly excludes structures and part of structures, which do not stay in place after construction and specific exclusion (b) which excludes coffering panels intended for pouring concrete having the character of mould from the purview of Chapter 76, came to the conclusion that the product imported by the appellant is rightly classifiable under CTH 8480. Admittedly, apart from this evidence, there is no other evidence like expert opinion or comparable imports etc to support the claim of the department that the goods are more in the nature of mould and not otherwise.

17. We find that these are in the nature of panels, which are pre-designed, keeping in view certain designs for construction of houses, buildings, etc. These are required to be first setup in accordance with the design of the house, whereby they look like prefabricated structure. Apart from fixing the core material like Iron bars, rods, etc., the concrete is poured in the cavity between the two panels and once the concrete is set in, these panels are removed one by one, whereby the set concrete gives look of a pre-designed structure.

18. It could be seen that the department is proposing that these are more in the nature of moulds for mineral materials. On perusal of HSN explanatory note (1) to CTH 8480, it would be seen

that it covers (1) moulds for ceramic pastes (eg. brick moulds, moulds for pipes or for other articles of ceramics, including moulds for artificial teeth) and (ii) moulds for moulding concrete, cement or asbestos-cement goods (tubes, vats, paving stones, flags, chimney-pots, banisters, architectural ornaments, wall, floor or roof slabs, etc.). Therefore, what is apparent is that it covers that kind of mould, which will mould concrete, etc., into various items like tubes, vats, paving stones, flags, etc. It will also include the mould walls, floor or roof slabs. Here it is important to note that the expression used, "wall, floor or roof slabs, etc.", means that slabs which are meant for use in walls, floors or roofs are also made by using moulds. Essentially, in the case of mould. the articles which are made by way of moulding concrete, etc., are the articles which are end products of the moulding product and the same is thereafter used for certain other purposes including construction purposes. Whereas, in the case of impugned goods, they are acting as a support for setting of the concrete and the structure once set in stays where it is and only the plates are removed. Therefore, there is stark difference between this product and the mould and therefore, AFM cannot be treated as if it is a mould for moulding in building or a house. It is nobody's case that these were used for making parts which were later assembled for construction of house rather from the facts, it is apparent that these were used as shutters and support, in situ, where the concrete gets set and immovable structures like houses, building, etc., emerge

19. On the other hand, CTH 7610 covers, inter alia, all kinds of aluminium structure except for the exclusion provided, Le mould falling under Chapter 84. Therefore, even if there is a mould made out of 100% aluminium also, it would be not classifiable under CTH 7610 and it will be falling under Chapter 84. However, when the product itself is not a mould then the exclusion will not be applicable. The same heading also includes aluminium plates, rods, profiles, tubes and the like, prepared for use in structures. In this case, as discussed in the foregoing paras, these goods are nothing but various aluminium plates though custom designed, which are assembled at site, in situ, for construction of buildings, etc. Since in view of the use of this panel it cannot be called a mould, therefore,

reclassification proposed by the department is not sustainable and classification claimed by the appellant will have to be accepted

20. The Revenue has also relied on the judgment of CC (Import), Mumbai Vs Dilip Kumar and Co. & Ons (supra) in support that if there is a grey area, the benefit should go to Revenue. In this case, there is a contradictory classification which will decide whether the benefit of notification will accrue or otherwise and it is not the admissibility of notification per se, which is in question. In so far as the classification is concerned, the Hon'ble Supreme Court, inter alia, debated as to how the statute should be construed and considered various case laws to come to the conclusion that when the words in the statute are clear, plain and unambiguous and only one meaning can be inferred, the Courts are bound to give effect to the said meaning irrespective of consequences. However, if the plain language results in absurdity, the Court is entitled to determine the meaning of the word in the context in which it is used keeping in view the legislative purpose. The crux of this judgment is summarized in Para 43 of this judgment which is reproduced below:

43. There is abundant jurisprudential justification for this. In the Governance of rule of law by a written Constitution, there is no implied power of taxation. The tax power must be specifically conferred and it should be strictly in accordance with the power so endowed by the Constitution itself. It is for this reason that the Courts insist upon strict compliance before a State demands and extracts money from its citizens towards various taxes. Any ambiguity in a taxation provision, therefore, is interpreted in favour of the subject/assessee. The statement of law that ambiguity in a taxation statute should be interpreted strictly and in the event of ambiguity the benefit should go to the subject/assessee may warrant visualizing different situations. For instance, if there is ambiguity in the subject of tax, that is to say, who are the persons or things liable to pay tax, and whether the revenue has established conditions before raising and justifying a demand. Similar is the case in roping all persons within the tax net, in which event the

State is to prove the liability of the persons, as may arise within the strict language of the law. There cannot be any implied concept either in identifying the subject of the tax or person liable to pay tax. That is why it is often said that subject is not to be taxed, unless the words of the statute unambiguously impose a tax on him, that one has to look merely at the words clearly stated and that there is no room for any intendment nor presumption as to tax. It is only the letter of the law and not the spirit of the law to guide the interpreter to decide the liability to tax ignoring any amount of hardship and eschewing equity in taxation. Thus, we may emphatically reiterate that if in the event of ambiguity in a taxation liability statute, the benefit should go to the subject/assessee. But, in a situation where the tax exemption has to be interpreted, the benefit of doubt should go in favour of the revenue, the aforesaid conclusions are expounded only as a prelude to better understand jurisprudential basis for our conclusion. We may now consider the decisions which support our view."

21. Therefore, if there is any ambiguity in a taxation provision, it is to be interpreted in favour of the subject assessee. However, when a tax exemption has to be interpreted, the benefit of doubt should go in favour of the Revenue. Thus, as the issue is not that of exemption and more of classification leading to demand of duty, this judgment would not help the cause of the department. In fact, going by the ratio, we find that since in this case, there could be grey area regarding coverage under Chapter 76, vis-à-vis Chapter 84 due to various interpretations not emanating from the heading itself, the benefit of doubt should be given to the appellant and not to the Revenue. The Revenue has also relied on the judgment in the case of M/s Tata Projects Ltd Vs CC, Chennai (2024 (3) TMI 1055CESTAT Chennai). However, going through the judgment, it appears that in this case the supplier had claimed the classification of aluminium framework under CTH 8480.60, whereas the appellant claimed said goods under CTH 7610.9020. This case is distinguishable on two counts. Firstly, the appellant themselves are claiming the classification under CTH 8480.60 and the product is aluminium framework and not

aluminium formwork. Moreover the issue was relating to grant of refunds and not that of classification. Similarly, the other case laws, relied upon by the Revenue, are not relevant as in the case of *Shree Ram Urban Infrastructure Ltd Vs CC (Imports), Mumbai [2009 (5) TMI 673-CESTAT Mumbai]*, the issue was classification of composite product used to assist in construction and based on the examination of samples and its composition, the Tribunal felt that the same was classifiable under CTH 8480.60. In fact, in Para 5 of the said order, the department reiterated the findings of the Commissioner and contended that the expression, "for use in structure", used in CTH 7610 does not necessarily imply that the goods should become part of the structure and temporary use is also covered within the expression, "use in structure. Therefore, since the essential character is imparted to the panel by aluminium, the goods are rightly classifiable under CTH 7610. In the present appeal, the department is taking a different view on CTH 7610 that it needs to be a permanent structure and it should not be movable, which is tenable.

22. Another ground taken by the department is that they will get excluded because they are coffering panels and therefore, they would not be included in the purview of CTH 7610. We find that coffering panels are basically decorative ceiling treatment that is used for creating a grid like pattern on ceiling and by the very description, as discussed supra, Aluminium Formwork cannot be considered as coffering panels and therefore, it does not get excluded from CTH 7610.

23. We also find that the reliance has been placed by the learned Advocate on the recent judgment of the coordinate bench at Kolkata, where the similar item has been held to be classifiable under CTH 76109010 and therefore, the ratio of the said judgment is applicable to the present factual matrix as the facts are more or less identical. Further, we also note that in this case, the Bill of Entry, which was cleared under self assessment, has not been challenged by the Revenue Therefore, in view of the judgment in the case *Shri Rajib Saha Vs CC (Prev) Shillong (supra)*, the demand is not sustainable on this count also. It is also noted that there is some force in the submissions made by the appellants that the Adjudicating Authority has gone beyond the scope of SCN by denying them the benefit of

notification 152/2009 (S.No.610), in as much as there was no reasons cited in the SCN as to why the above said notification should be denied. We have perused the notification 152/2009 and we find that this is a notification provided for concessional duty in respect of imports made from Republic of Korea. In the SCN or in the OIO, there is no specific discussion as to why this notification has been denied, whether it was on account of import not being considered as import from Korea or it was on account of the fact that it was not covered under S.No.610 of the notification. Therefore, in the absence of these details, the appellants were not given adequate opportunity to defend the eligibility for said notification and therefore, this denial is also not tenable

24. In view of the discussions in the foregoing paras, we find that the product AFM imported by the appellant is rightly classifiable under CTH 76109090 and not under CTH 84806000, as confirmed by the Adjudicating Authority. Moreover, since there is no dispute as regards origin of the goods, therefore, once the goods are falling under CTH 7610, the same would be entitled for exemption notification 152/2009 dt. 31.12.2009 at S.No.610. In view of the same, the Order of the Adjudicating Authority is not legally tenable and therefore, we set aside. Since the appeal has been allowed on merits itself, the issue of limitation is not taken up and is left open.

25. Appeal is allowed with consequential benefits, as per law."

13. In view of the discussion in the preceding paragraphs and by relying on the decisions cited supra, we hold that the demand of differential duty of Rs.19,48,425/- by denying the exemption benefit provided under Customs Notification No. 152/2009, as confirmed vide the impugned order, is not sustainable. We do not interfere with the dropping of penalty by the Id. appellate authority in the impugned order. Consequently, the demand of duty confirmed in the impugned order stands set aside.

14. The appeal stands disposed of in the above manner.

(Order pronounced in the open court on 12.09.2025)

Sd/-

(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd