

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

REGIONAL BENCH – COURT NO. 2

**Customs Appeal No. 75366 of 2025**

(Arising out of Order-in-Appeal No. KOL/CUS(PORT)/KS/584/2024 dated 14.10.2024 passed by the Commissioner of Customs (Appeals), 3<sup>rd</sup> Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

**M/s. United Sales Agency**  
Unit-5A, 3<sup>rd</sup> Floor, Globsyn Crystal II,  
11-12, EP Block, Sector-V, Salt Lake,  
Kolkata – 700 091

**: Appellant**

**VERSUS**

**Principal Commissioner of Customs (Port)**  
Custom House, 15/1, Strand Road,  
Kolkata – 700 001

**: Respondent**

**AND**

**Customs Appeal No. 75632 of 2025**

(Arising out of Order-in-Original No. KOL/CUS/COMMISSIONER/PORT/GRP 5(A&B)/02/2025 dated 09.01.2025 passed by the Principal Commissioner of Customs (Port), 15/1, Strand Road, Custom House, Kolkata – 700 001)

**M/s. United Sales Agency**  
Unit-5A, 3<sup>rd</sup> Floor, Globsyn Crystal II,  
11-12, EP Block, Sector-V, Salt Lake,  
Kolkata – 700 091

**: Appellant**

**VERSUS**

**Principal Commissioner of Customs (Port)**  
Custom House, 15/1, Strand Road,  
Kolkata – 700 001

**: Respondent**

**APPEARANCE:**

Shri Bhaskar Thakkar, Chartered Accountant,  
Smt. Sneha Nandi, Advocate,  
For the Appellant

Shri Ashwini Kr. Choudhary, Authorized Representative,  
For the Respondent

**CORAM:**

**HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)**  
**HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)**

**FINAL ORDER NOs. 77786-77787 / 2025**

DATE OF HEARING: 17.11.2025

DATE OF DECISION: 26.11.2025

**ORDER: [PER SHRI R. MURALIDHAR]**

Appeal No. C/75366/2025:

The appellants have imported 'Bicycles' of different models from the overseas supplier, namely, M/s. Seawa Industries (M) SDN, BHD, 98-3-23D, Unit 1, Prima Tanjung Business Centre, Jalan Fettes, 10470 Tanjung Tokong, Penang, Malaysia, availing the preferential rate of customs duty benefit on the basis of Certificate of Origin as per Notification No. 46/2011-Cus. Dated 01.06.2011.

1.1. They filed Bill of Entry No. 9842626 dated 03.08.2022 submitting therewith all the relevant documents such as invoice, packing list, Certificate of Origin, Bill of Lading, etc. The Certificate of Origin, initially filed on 01.08.2022, was found to have some signature discrepancy. Even the second Certificate of Origin / COO filed was found to contain some errors. Finally, a third and final Certificate of Origin (COO) bearing No. PP-2022-AI-21-002850 dated 07.09.2022 was filed before the Customs authorities. The consignment was assessed provisionally against bond.

2. A Show Cause Notice was issued on 08.11.2023 for finalization of assessment of the said Bill of Entry. This Show Cause Notice alleged that the COO was not authentic.

2.1. After due process, the adjudicating authority vide Order dated 19.04.2024 held that the Certificate of Origin was not proper and accordingly, denied the exemption benefit of preferential rate of duty under Notification No. 46/2011-Cus. Dated 01.06.2011 and demanded the differential customs duty of Rs.33,17,607/-, along with interest.

2.2. On appeal, the Ld. Commissioner (Appeals) has dismissed their appeal vide Order-in-Appeal dated 14.10.2024.

2.3. Therefore, the appellant is before the Tribunal.

3. The Ld. Consultant appearing on behalf of the appellant submits that the entire basis for rejecting the authenticity of the Certificate of Origin No. PP-2022-AI-21-002850 dated 07.09.2022 is on account of the letter received by the Principal Commissioner of Customs (Port), Custom House, 15/1, Strand Road, Kolkata – 700 001, from the Department of Revenue, Central Board of Indirect Taxes & Customs (C.B.I.C.), Directorate of International Customs (FTA Cell) vide F. No. 456/286/2022-FTA Cell4 dated 27.01.2023; in this letter, it has been mentioned by the FTA Cell that the COO has been confirmed to be inauthentic by the issuing authority at Malaysia. He submits that this letter also directed the Principal Commissioner of Customs (Port) to check the past imports made by the importers, who would have imported consignments from the same overseas exporter. The Ld. Consultant submits that though this letter mentions that the e-mail dated 24.01.2023 received from the High Commission of India, Kuala Lumpur towards the verification report is enclosed with the said letter (dated 27.01.2023), this verification report was never made available to the appellant at any point of time till now. He submits that the contents of the verification report would be material to find out as to whether the overseas exporter was qualified to issue the COO or not. It is submitted that in the absence of the verification report, the appellant would not be in a position to defend their case properly; since the same has not been provided to them till now, it is his

submission that the principles of natural justice have not been fulfilled and the so-called verification report cannot be relied upon by the Revenue so as to reject the COO filed by the appellant. On this ground, he contends that the impugned order be set aside and their appeal be allowed.

Appeal No. C/75632/2025

4. In view of the contents of the letter dated 27.01.2023 issued by the FTA Cell, Directorate of International Customs, C.B.I.C., the Department initiated further proceedings in respect of past consignments imported by the appellant from the same overseas exporter. The details of the Bills of Entry, duty paid and Certificates of Origin numbers are as given in the following table: -

Annexure A			
Sl. No.	Details of Bills of Entry	Total Duty Paid	Certificate of Origin
1	4997533 dt. 10.08.2021	1233999	COO No. NKL-2021-AI-21-0763218 dated 06.08.21
2	5543868 dt. 22.09.2021	437829	COO No. KL-2021-AI-21-0793286 dated 21.09.21
3	6275088 dt. 16.11.2021	565381	COO No. KL-2021-AI-21-089468 dated 16.11.21
4	7216104 dt. 24.01.2022	607211	COO No. KL-2022-AI-22-018876 dated 21.01.22
5	7991323 dt. 24.03.2022	610798	COO No. KL-2022-AI-22-031154 dated 11.03.22
6	8808107 dt. 24.05.2022	587076	COO No. KL-2022-AI-22-052384 dated 23.03.22

5. The Ld. Consultant for the appellant submits that in respect of the earlier consignments imported in 2021 and 2022, the doubts expressed towards the authenticity of the Certificate of Origin No. PP-2022-AI-21-002850 dated 07.09.2022 cannot be applied, without any specific enquiry in respect of the six consignments in question. Therefore, he submits that there is no proper basis for confirmation of the

demands in respect of these six consignments. On the grounds already taken by the appellant in respect of Appeal No. C/75366/2025, which pertains to Certificate of Origin No. PP-2022-AI-21-002850 dated 07.09.2022, he prays that the impugned order in respect of this appeal may also be set aside on merits and the appeal be allowed.

5.1. He further takes the stand that the six consignments imported between 10.08.2021 and 24.05.2022 in this case were assessed normally (on self-assessment basis) and duty was paid by the appellant on the basis of concession granted vide Notification No. 46/2011-Cus. dated 01.06.2011. It is his submission that in case the Revenue was not satisfied with the authenticity of the Certificates of Origin, they should have filed appeal against the self-assessed Bills of Entry. In such cases of finally assessed Bills of Entry, Appeal is required to be filed, as has been held by the Hon'ble Supreme Court in the case of *ITC Ltd. v. Commissioner of Central Excise, Kolkata-IV [2019 (368) E.L.T. 216 (S.C.)]*; since all the six consignments have separate Certificates of Origin, unless each of them was got verified and then only if any adverse verification report was received by the Customs, they could not apply the logic used in respect of Certificate of Origin No. PP-2022-AI-21-002850 dated 07.09.2022, so as to deny the exemption benefit even without contesting the assessment of the Bills of Entry in question. Therefore, he argues that even on this count, the confirmed demand of Rs.1,02,94,348/- in respect of Appeal No. C/75632/2025 is required to be set aside and the appeal filed by the appellant is to be allowed.

5.2. He submits that in the absence of physical availability of the imported goods in respect of the six Bills of Entry, the confiscation order and consequent redemption fine are legally not sustainable and hence, the same are required to be set aside.

6. The Ld. Authorized Representative representing the Revenue submits that in respect of Bill of Entry No. 9842626 dated 03.08.2022, the appellant had submitted multiple COO certificates from time to time; finally, they took the stand that the COO Certificate No. PP-2022-AI-21-002850 dated 07.09.2022 may be considered as the final and correct certificate. He submits that in view of the changing stand of the appellant in respect of the COO, the goods were not released in the normal course, but were subjected to provisional release; while finalizing the provisional assessment, opportunity had been given to the appellant to come out with all documentary evidence. It is his submission that the Department had received a clear communication from the FTA Cell, Directorate of International Customs that the overseas exporter (viz., M/s. Seawa Industries (M) SDN, BHD, Malaysia) did not have the registration for exports as per the records available with the Government of Malaysia. Therefore, it is his contention that the COO Certificate issued by the appellant cannot be treated as an authentic COO so as to extend the benefit of concessional rate of customs duty to the appellant; only on this ground, after getting such adverse verification report, the Id. adjudicating authority has finalized the adjudication by confirming the demand of Rs.33,17,607/- in respect of the first appeal (Appeal No. 75366/2025).

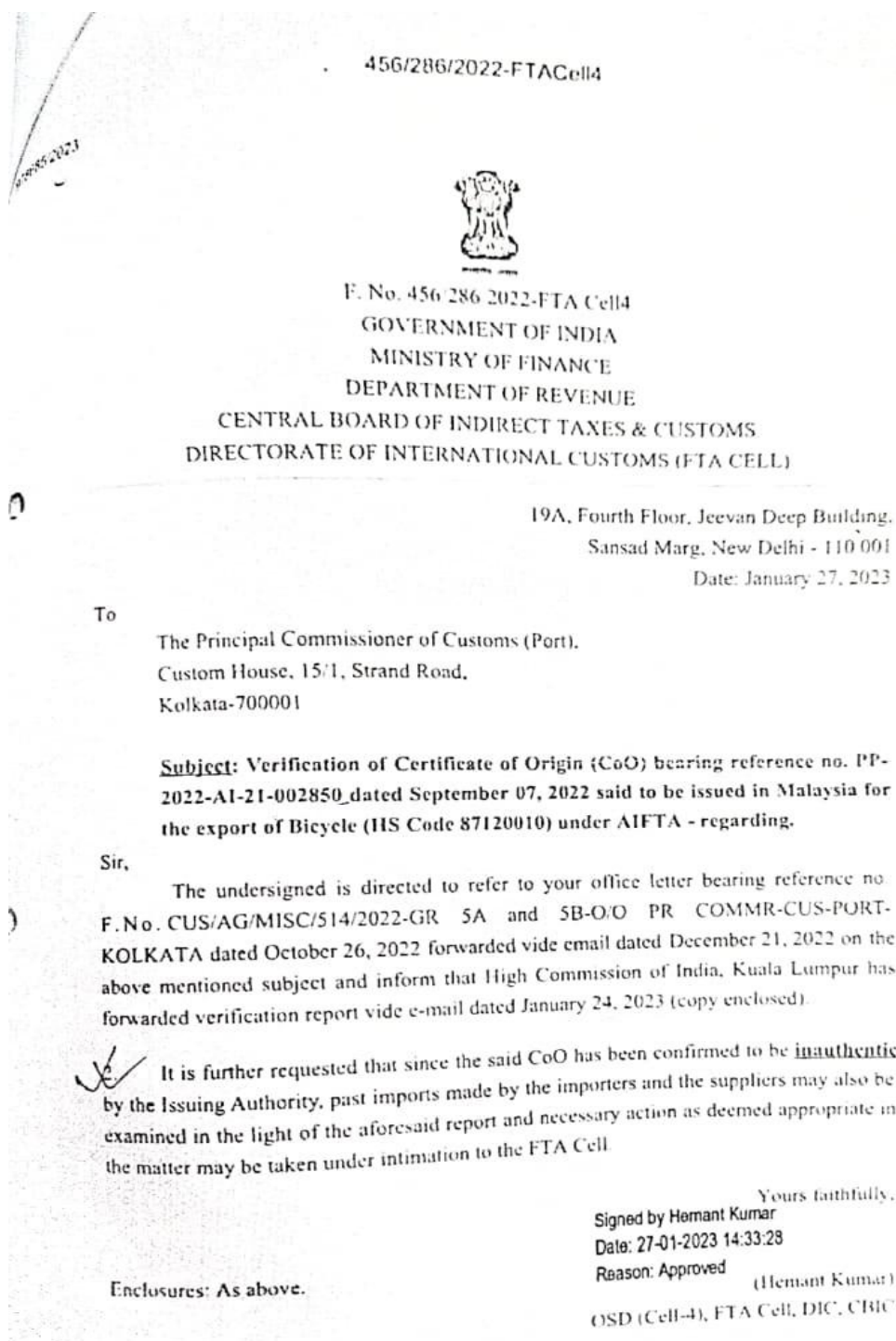
6.1. In respect of the second appeal (Appeal No. C/75632/2025), the Ld. Authorized Representative of the Revenue submits that in view of the discrepancy noticed in the Certificate of Origin No. PP-2022-AI-21-002850 dated 07.09.2022, a specific instruction was given by the FTA Cell to verify the other imports made from the same exporter; after verification, the Department found that the appellant had imported six consignments during the period between 10.08.2021 to 24.05.2022. In this regard, he submits that it has already been established that the overseas exporter did not have proper registration enabling them to issue the COO Certificate. Therefore, the question of treating the COOs already submitted by the appellant at the time of import as authentic documents so as to enable them to get the benefit of the exemption Notification did not arise; only on account of these factual details, the Id. adjudicating authority confirmed the demand of Rs.1,02,94,248/-, along with interest and penalty; the appellant was also given the option to redeem the goods on payment of Rs.25,00,000/-.

6.2. In view of the above submissions, the Ld. Authorized Representative of the Revenue prays that the appeals be dismissed.

7. Heard both sides, perused the appeal papers and other documentary evidence placed before us.

**Appeal No. C/75366/2025:**

8. We find that the entire issue revolves around the fact of authenticity of the Certificate of Origin No. PP-2022-AI-21-002850 dated 07.09.2022. The Department has placed reliance on the letter dated 27.01.2023 received from the FTA Cell, Directorate of International Customs, C.B.I.C., Department of Revenue. The same is reproduced below: -



8.1. From the above, we observe that this letter is based on the verification report said to have been received by way of e-mail dated 24.01.2023. This letter says "copy enclosed". However, the appellant has pointed out that this 'copy' was not issued to them at any point of time. In support of their contention, they have cited the letters submitted by them seeking copy of this verification report. Copies of such letters submitted by the appellant are reproduced below: -



**UNIROX**  
United Sales Agency  
Star Category Export House  
www.unirox.in  
Date : 16.11.2023

To  
The Assistant Commissioner of Customs,  
Appraising Group 5B,  
Customs House,  
15/1, Strand Road,  
Kolkata - 700001.

सेवोसम प्राप्ति  
SEVOTTAM RECEIPT  
Contains not used and  
Office of the Assistant Commissioner of Customs  
Kolkata (PORT)  
SI No. 1411/2023 014108 (14.48)  
Date 16/11/2023

Sub.: Notice dated 8.11.2023 u/s 18 of the Customs Act,  
1962 - Prayer for relied-upon documents - Reg.

Sir,

We are in receipt of your subject Notice issued in connection with our import consignment under Bill of Entry No. 9842626 dated 3.8.2022. You have proposed to finalise the assessment on the said Bill of Entry after rejecting benefit under Notification No. 46/2011-CUS dated 1.6.2011. We have been asked to show-cause before your kindself within two weeks from the receipt of the said Notice.

In this regard, it is to state before your kindself that the Notice was received by us on 15.11.2023 and on going through the same, we find that the Notice relies upon a letter dated 27.1.2023 issued by FTA Cell as well as e-mail copy of Industry & Trade Support Division, Ministry of International Trade & Industry (MITI), Malaysia. However, no copy of any of such letter or e-mail has been provided to us along with subject Notice.

Accordingly, we most humbly request your kindself to provide us copy of the abovereferred letter and e-mail (as has been relied upon at paragraph 8 of your subject Notice) so that after going through the same, we can submit our effective reply to your subject Notice.

We shall act upon further instruction and receipt of the abovereferred documents from your end.

This is for your kind and immediate action.

Thanking you,

Yours faithfully,  
UNITED SALES AGENCY

*(Signature)*  
Partner

+91 33 4804 6594 +91 81006 32743	united@unitedsl.com office@unitedsl.com	Office : Unit 5A, 3rd Floor, Globsyn Crystal II, 11- 12, EP Block, Sector-V, Salt Lake, Kolkata - 700091 Unit : Falta Special Economic Zone, West Bengal, India.
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*Letter EE*  
**UNIROX**  
United Sales Agency

Star Category Export House  
www.unirox.in

Date : 19.12.2023

To  
The Assistant Commissioner of Customs,  
Appraising Group 5B,  
Customs House,  
15/1, Strand Road,  
Kolkata - 700001.

SEVOTTAM RECEIPT  
Contents not Verified  
Office of the Commissioner of Customs  
Kolkata (PORT)

SI No *Δ* 015583 *(15.58)*  
Date *20/12/2023*

Sub.: Notice dated 08.11.2023 u/s 18 of the Customs Act, 1962 & letter dated 13.12.2023

Sir,

We have received your letter no. 20231276NN0000777D06 dated 13.12.2023 along with copy of letter dated 27.01.2023 issued by FTA Cell, DIC, CBIC. In this regard we like to point out that vide our letter dated 16.11.2023, we have asked for the letter dated 27.1.2023 issued by FTA Cell as well as e-mail copy of Industry & Trade Support Division, Ministry of International Trade & Industry (MITI), Malaysia. However we have received only the letter dated 27.1.2023 issued by FTA Cell but not received the email copy of Industry & Trade Support Division, Ministry of International Trade & Industry (MITI), Malaysia.

Accordingly, we most humbly request your kindness to provide us copy of the above referred e-mail as has been relied upon at paragraph 8 of your subject Notice.

Please give atleast 15 days time for us to give reply as and when we receive the required documents. Please also set personal hearing date accordingly.

Thanking you in advance.

Yours faithfully

UNIROX SALES AGENCY  
*[Signature]*  
Partner

+91 33 4804 6594 +91 81006 32743	united@unitedsl.com office@unitedsl.com	Office : Unit 5A, 3rd Floor, Globsyn Crystal II, 11- 12, EP Block, Sector-V, Salt Lake, Kolkata - 700091 Unit : Falta Special Economic Zone, West Bengal, India
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सेवोत्तम प्राप्ति  
SEVOTTAM RECEIPT  
Contents not Verified  
Office of the Commissioner of Customs  
Kolkata (PORT)  
Sl. No. • 000838  
Date 18.11.24

UNIROX  
United Sales Agency  
Star Category Export House  
www.unirox.in  
Date : 17.01.2024

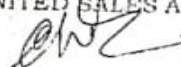
To  
The Assistant Commissioner of Customs (Port),  
Gr. 5 (A&B), Customs House,  
15/1, Strand Road,  
Kolkata – 700001.

Sub.: Notice dated 8.11.2023 under Section 18 of the Customs Act, 1962 – Non-supply of copy of relied upon document – Personal Hearing – Prayer for adjournment and re-fixation – Reg.

Sir,

1. We are in receipt of a notice dated 16.1.2024 Issued by the Ld. Appraiser, Group 5 (A&B), Customs House, Kolkata intimating that the "Final Personal Hearing" with respect to the subject Notice dated 8.11.2023 is fixed before your kindness on 25.1.2024 at 12:30 P.M.
2. In this regard, we invite your kind attention to our earlier letters dated 16.11.2023 (submitted on 17.11.2023) and 19.12.2023 (submitted on 20.12.2023) before your kindness, whereby we had specifically prayed for copy of the 'e-mail of Industry & Trade Support Division, Ministry of International Trade & Industry (MITI), Malaysia', as has been relied upon at paragraph 8 of the subject Notice dated 8.11.2023.
3. It is to state that in spite of our repeated requests, neither copy of such relied upon document had been provided to us nor it is communicated by the office of your kindness that no such copy of RUD shall be provided to us. In absence of such communication, till date we could not prepare our reply to the subject Notice dated 8.11.2023.
4. It is further to state that the opportunity of Personal Hearing was previously fixed on 11.1.2024 at 12 noon before your kindness and now the same has been fixed as "Final Personal Hearing" on 25.1.2024, which cannot be considered as reasonable and sufficient opportunity of defence or opportunity of Personal Hearing before your kindness more particularly when the copy of the aboveresferred RUD was not provided to us till date.
5. We most humbly state that in absence of specific communication from your kind end. it is deemed that either no copy of the aboveresferred RUD is available with the office of your kindness or the same shall not be provided to us. Accordingly, we are proceeding to prepare our reply to the subject Notice dated 8.11.2023 on such basis and for submission of such reply we require reasonable and sufficient time.
6. In view of the above, we most humbly request your kindness to kindly adjourn the hearing so fixed on 25.1.2024 before your kindness and re-fix the same sometime in February, 2024 at least so that in the meantime we can submit our reply to the subject Notice dated 8.11.2023.
7. This is for favour of your kind consideration and in the interest of justice.

Thanking you,

Yours faithfully,  
For United Sales Agency  
UNITED SALES AGENCY  
  
Partner

From the above letters, we find that the appellant had been following up to get a copy of the said verification report.

8.2. We also find that unless the said verification report is seen, to know as to on what basis the Certificate of Origin No. PP-2022-AI-21-002850 dated 07.09.2022 has been regarded as "***inauthentic***" by the Issuing Authority, we cannot come to any conclusion. Since the Department has relied on the verification report, it was incumbent on them to provide this document while taking up the finalization of the provisional assessments. Therefore, in the absence of the verification report, we cannot hold that the COO in question to be "***inauthentic***". If such a conclusion is arrived at on the basis of the FTA Cell's letter dated 27.01.2023, it will amount to coming to a conclusion based on hearsay evidence. Therefore, we are not inclined to accept the logic used by the Department to finalize the assessment without granting the benefit of exemption Notification No. 46/2011-Cus. dated 01.06.2011 to the appellant solely on the basis of the FTA Cell's letter dated 27.01.2023, without backing up the same with the verification report dated 24.01.2023.

9. Thus, on this ground, we hold that the confirmed demand of Rs.33,17,607/- in respect of the first appeal viz. Appeal No. C/75366/2025, is liable to be set aside. We do so and allow the appeal.

**Appeal No. C/75632/2025:**

10. Coming to the second appeal, pertaining to six Bills of Entry, since the basis of these proceedings are once again based on the FTA Cell's letter dated 27.01.2023, on the same ground as has already been discussed in detail in respect of the first appeal, we set aside the impugned order and allow this appeal.

11. In respect of this appeal, we also find force in the appellant's argument that the consignments in question were imported between 10.08.2021 and 24.05.2022 vide six separate Bills of Entry, under six different Certificates of Origin / COOs and thus, in case the Department wanted to contest these earlier imports based on the directions contained in the letter dated 27.01.2023 (from the FTA Cell), proper verification should have been undertaken in respect of these six Certificates of Origin also, which has not been done in this case. Just because the authenticity of the Certificate of Origin No. PP-2022-AI-21-002850 dated 07.09.2022 is doubted (even for which we do not have copy of the verification report), on the same ground, on assumptions and presumptions, the authenticity of the other six Certificates of Origin cannot be doubted so as to deny the exemption benefit.

12. We also find that the assessments were completed by the appellant and the same were not challenged by the authorities to get the same re-assessed without providing the benefit of the said exemption Notification in view of the allegation that the earlier Certificate of Origin No. PP-2022-AI-21-002850 dated 07.09.2022 was "***inauthentic***". In the case of *ITC Ltd. (supra)*, the Hon'ble Supreme Court 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."*

12.1. Relying upon the above judgement, this Bench, in the case of *Rajib Saha v. Commissioner of Customs (Preventive), Shillong [Final Order Nos. 76465-76466 of 2023 dated 24.08.2023 in Customs Appeal No. 75278 and 75279 of 2016 (CESTAT, Kolkata)]*, has held as under: -

*"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."*

12.2. Applying the ratio of the above cited case-laws, we hold that the confirmed demand of Rs.1,02,94,248/- in respect of the second appeal No. C/75632/2025 is not legally sustainable.

12.3. Hence, the impugned order stands set aside, on the above grounds.

12.4. We also find that the adjudicating authority has imposed a redemption fine of Rs.25,00,000/- even though the imported goods were not available with the Revenue and the same had been cleared after finalization of the respective Bills of Entry, without any provisional assessment being done. Therefore, we hold that the confiscation and imposition of redemption fine in this case is legally not sustainable. We set aside the same.

13. As a result, both the appeals are allowed. The appellant would be eligible for consequential relief, if any, as per law.

(Order pronounced in the open court on **26.11.2025**)

Sd/-

**(R. MURALIDHAR)**  
MEMBER (JUDICIAL)

Sd/-

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

Sdd