

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
CHENNAI**

REGIONAL BENCH – COURT NO. I

Customs Appeal Nos. 41317 & 41318 of 2016

(Arising out of Order-in-Appeal C. Cus II No.281 & 282/2016, dated 22.03.2016 passed by the Commissioner of Customs (Appeals II), 60, Rajaji Salai, Custom House, Chennai 600 001)

M/s. Tractor and Farms Equipment Ltd.,

Huzur Gardens, Sembium
Chennai 600 011

.....Appellant

Versus

Commissioner of Customs

60, Rajaji Salai
Customs House
Chennai 600 001

...Respondent

APPEARANCE:

Mr. N. Viswanathan, Advocate for the Appellant

Ms. Rajini Menon, Authorised Representative for the Respondent

CORAM :

HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)

HON'BLE MR. AJAYAN T.V, MEMBER (JUDICIAL)

FINAL ORDER Nos.41478-41479/2025

DATE OF HEARING: 25.08.2025

DATE OF DECISION: 17.12.2025

Per Ajayan T.V.

Tractor and Farm Equipments Ltd., the appellant herein has challenged the orders in appeal C.Cus-II-281 & 282/2016, dated 22.03.2016.

2. Briefly stated, the facts are that the appellant, a manufacturer of tractors, had exported tractors to TAFE International, Turkey under drawback shipping bills and claimed duty draw back against these exports as well as duty credit under Focus Market Scheme under Chapter 3 of the Foreign Trade Policy. The appellant is stated to have procured tyres and tubes from one M/s. Balakrishna Tyres, India for use in the said tractors. The tractors are stated to have been exported by the appellant in Semi Knock Down(SKD) condition along with the said tyres. It is stated by the

appellant that consequent to the buyers rejecting some of the tyres and tubes on quality concerns, the appellant filed bills of entry for clearing the reimported goods declaring them as tyres and tubes that were rejected and reimported duly referencing the respective shipping bills. The appellant claimed customs duty benefit for the reimported goods in terms of Notification No.94/96-Cus. dated 16.12.1996 on the ground that they are rejected and reimported.

3. The bills were marked for first check appraisalment to verify description with respect to original import documents and establish identity with respect to export documents to establish that the goods imported are the same as the exported goods.
4. Consequent to the examination, in respect of goods imported vide BE No.2637502 dated 18.09.2015, the examination report confirmed the declared description, country of origin as India and reported the identity of the goods as established. When the officers were asked to verify whether the tyres imported are new, the dock officer reported that the goods exported are complete tractors, now only tyres are returned and are only part of the goods exported since the goods are not identifiable as those exported from the shipping bills produced. It was further stated that the goods appeared unused since buttons are intact with the tyres. As regards the goods imported vide BE No.2945248 dated 16.10.2015, the Dock Officer stated that the available marks are of 'tyres with tubes 340/85 and 24 BKT, RT 855, 125 a 8b' and of 'made in India'. It was stated that the identification of the import cargo with respect to the export cargo could not be established.
5. Pursuant to the appellant's request to be heard in person, during the personal hearing on 21.12.2015, a copy of the order no.386-397/2004 RA dated 16.08.2004 in favour of the appellant was submitted by the appellant. It was also submitted that the tyres and tubes reimported were that which was exported earlier and rejected by the Turkey customer. These tyres and tubes were of Indian make and same were earlier procured from M/s. Balakrishna Tyres, India and their brand name is known as BKT.

6. The Adjudicating Authority observed that it was found from the shipping bills that the goods exported are Brand New Agricultural Tractors fitted with Simpson SJ327E Engine (SKD condition), but only tyres (that too partly) are returned through the subject Bill of Entry. It is difficult to correlate between the exported goods and re-imported goods, since the details of tyres viz. brand, model, size, etc. are nowhere mentioned in the concerned shipping bills, export documents, packing list, etc. Further the examination report given by the Customs Docks Officer clearly states that "identification of the import cargo in respect of export cargo could not be established".
7. The Adjudicating Authority held that the said Notification, vide Sl. No. 3 of the table annexed thereto, grants exemption on the goods exported when re-imported into India provided that the goods are the same which were exported. The case under consideration is a re-importation, i.e., whether the goods exported were re-imported as such or the goods re-imported were different from those exported. There is no dispute on this fact that the goods under export were tractors, while the goods re-imported are only tyres. Under the Indian Customs Tariff, the tractors fitted with tyres falls under CTH. 8701, whereas tyres fall under CTH. 4011. For the purpose of levy of customs duty, the goods have to be assessed "as presented before the customs." As already noted above, these two goods are not one and the same and therefore the condition for availing benefit of Notification 94/96 that the goods are the same which were exported is not satisfied. The adjudicating authority further held that in respect of the Order dated 16.08.2004 in the appellant's favour, it was different from the issues on hand as it was about eligibility for draw back. It was further found that the goods in all the shipping bills are exported under Focus Market Scheme and the appellant had claimed duty draw back as well. Moreover, for the shipping bills exported, the time limit given for reimport under the Notification No.94/96-Cus is only one year and 23 shipping bills had already exceeded the said period at the time of import. Finding that the identity of the imported goods could not be established with respect to the exported goods and export documents and since 23 shipping bills (in the OIO No.43953/2015 dated 13.01.2016) and 30 shipping bills (in the OIO No.43974/2015 dated 13.01.2016) had exceeded one year time period specified and that the tyres imported are different from the goods exported, the Adjudicating Authority held the appellant to be not eligible

for the duty benefit under Notification No.94/96 Cus. and held that the goods are to be assessed under merit rate of duty.

8. Aggrieved by the Orders in Original, the appellant preferred appeals before the Commissioner of Customs (Appeals II), Chennai. However, the Appellate Authority vide the impugned Orders in Appeal, held that as per the conditions of the Notification No.94/96-Cus. dated 16.12.1996 allowing the reimport of goods within three years of their exportation, if the goods are the same as that which were exported; however, in the instant case, the goods exported were tractors whereas the goods reimported are tyres and tubes. The Appellate Authority held that since the goods reimported are not the same as the goods exported but only part of the tractors exported, by strict interpretation of the Notification, the benefit cannot be extended to such goods.
9. Shri N. Viswanathan, Ld. Advocate appearing for the appellant contended that the Revenue have not disputed that the imported tyres and tubes were exported along with the tractors in SKD Condition. The interpretation placed by the lower authorities requiring the reimport of the entire tractors for the benefit of the exemption to be extended, is improper and incorrect. The fact of the reimport of the tyres and tubes originally exported along with the tractors is further supported by the marks of the tyres and tubes showing the manufacturer as BKT and that the tyres are manufactured in India which is also further supported by the email correspondence produced by the appellant. The appellant places reliance on decisions of the Supreme Court which has stated that if the appellant is eligible for the benefit of the notification then in satisfaction of the conditions a liberal view is to be taken. Reliance is placed on the decisions in ***Bharat Diagnostic Centre Vs. CC, 2014 (307) ELT 632 (SC), CCE, Surat India Vs. Favourite Industries 2012 (278) ELT 145 (SC), CC (Preventive, Mumbai Vs. Young Ambalal and Co. 2010 (260) ELT 487 (SC), Union of India Vs. Wood Papers Ltd. 1990 (47) ELT 500 (SC) and CC (Imports), Mumbai Vs. Dileep Kumar & Co., 2018 (361) ELT 577 (SC).***
10. Ms. Rajini Menon, Ld. AR appearing for the Respondent reiterated the findings of the Appellate Authority.

11. Heard the rival submissions, perused the appeal records and case laws submitted.
12. The sole issue that arises for consideration is whether the identity of the goods reimported by the appellant as that which was earlier exported has been sufficiently established so as avail the benefit of the Notification 94/96-Cus dated 16-12-1996 claimed.
13. We find that the appellate authority has chosen to reject the appeal preferred by the appellant holding that since the goods exported were tractors and that reimported were only tyres and tubes, they are not the same as the goods exported but only part of the tractors exported and hence by strict interpretation of the notification, the benefit cannot be extended to such goods.
14. We are unable to appreciate such a reasoning adopted by the Ld. Appellate Authority. Indisputably the appellate authority has no quarrel that the tyres and tubes are not the same as the tyres and tubes that have been exported along with the tractors but the objection appears to be that since it is tractors that have been exported the benefit can be extended only if the tractors are imported. Concededly the initial examination as can be seen in respect of goods imported vide BE No.2637502 dated 18.09.2015, the examination report confirmed the declared description, country of origin as India and reported the identity of the goods as established. When asked to verify whether the tyres imported are new, it was reported that the goods appeared unused since buttons are intact with the tyres however, the dock officer reported that the goods exported are complete tractors and now only tyres are returned and are only part of the goods exported and ergo the goods are not identifiable as those exported from the shipping bills produced.
15. We find that the requirement of the notification is that the goods are the same which are exported. Thus, when the shipping bills evidence the tractor exported to be in SKD condition and the accompanying invoices and packing list indicate these tyres as that exported along with the tractors, if the recipient of the goods has raised quality issues only with the tyres and tubes, it would be opposed to commercial logic to expect the entire shipment of tractor in SKD condition to be returned for the

benefit of the notification to be extended. The satisfaction that the goods are the same which are exported can also be with respect to the identifiable goods that form part of the consignment in SKD condition which has been exported. The subjective satisfaction of the concerned authorities cannot be unreasonable and imprudent so as to be oblivious to the commercial realities of such business compulsions and to the exclusion of the supporting evidence substantiating the appellant's contentions to show that the goods reimported were the same as that exported by the appellant from India.

16. Given that the invoice accompanying the bill of entry also bears the note that the tyres and tubes earlier imported with the tractors were found to be defective and are returned back and when the attendant correspondence along with the marks on the tyres and tubes admittedly indicate that they are made in India and with the inscription bkt relatable as the mark of the supplier of the tyres to the appellant, shown as Balakrishna Tyres from the invoices indicating such supply of tyres to the appellant, and in the light of the fact that indisputably such reimported goods are conceded as parts of the tractors that were exported by the appellant, we are of the considered view that the identity of such goods reimported as that which were exported has been satisfactorily established by the appellant. Therefore, in the absence of any other condition of the notification claimed, found to have been violated by the Ld. Appellate Authority in the impugned orders in appeal, the impugned orders in appeal denying the benefit of the aforementioned notification claimed by the appellant and rejecting the appellant's appeal is untenable and is hereby set aside.

The appeals are allowed, with consequential relief(s) in law, if any.

(Order pronounced in open court on 17.12.2025)

(AJAYAN T.V.)
MEMBER (JUDICIAL)

(M. AJIT KUMAR)
MEMBER (TECHNICAL)