

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 20124 of 2021

(Arising out of Order-in-Original No. 990/2020 dated 13.11.2020
passed by the Commissioner of Customs, Airport & Air Cargo
Complex, Bengaluru.)

M/s. Bharat Electronics Ltd.,
Jalahalli P.O.,
Bengaluru – 560 013.

Appellant(s)

VERSUS

**The Principal Commissioner of
Customs,**
Airport and Air Cargo Complex,
Air India Sats Airfreight Terminal,
KIAL, Devanahalli,
Bengaluru – 560 300.

Respondent(s)

APPEARANCE:

Mr. G. Shivadass, Senior Advocate for the Appellant

Shri M. Sreekanth, Superintendent (AR) for the Respondent

**CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS R BHAGYA DEVI, MEMBER
(TECHNICAL)**

Final Order No. 20378 /2026

DATE OF HEARING: 19.09.2025

DATE OF DECISION: 17.03.2026

PER : DR. D.M. MISRA

This is an appeal filed against the following orders passed
by the Commissioner of Custom, Airport & Air Cargo Complex,

Bangalore vide Order-in-Original No.990/2020 dated 13.11.2020.

ORDER

- a. the classification claimed by M/s. Bharat Electronics Limited, Jalahalli Post, Bengaluru - 560 013 under CTH 49070030 for the goods imported under BE No.6245648 dated 04.08.2016 and under CTH 49019900 for the for the goods imported under BE No.4275098 dated 29.07.2019 and BE No.6147126 dated 19.12.2019 is rejected. The benefit of Sl.No.268 of Notification No. 12/2012 Cus dated 17.03.2012 for BCD in respect of BE No. 6245648 dated 04.08.2016 is denied. The benefit of Sl.No.302 of Notification No.50/2017.Cus dated 30.06.2017 for BCD in respect of BE No.4275098 dated 29.07.2019 and BE No.6147126 dated 19.12.2019 is denied and IGST under Schedule II-132 is chargeable. The said goods under all the three bills of entry are re-classified under CTH 4911 99 90;
- b. the demand of duty amount of **₹15,40,46,243/-** (Rupees Fifteen Crores Forty Lakhs Forty Six Thousand Two Hundred and Forty Three only) from M/s.Bharat Electronics Limited, Jalahalli Post, Bengaluru - 560 013, being the differential Customs duty (inclusive of BCD, SWS and IGST) in respect of the Bills of Entry in (i) above is confirmed under the provision of Section 28 (4) of the Customs Act, 1962;
- c. the demand of applicable interest involved on the differential Customs Duties as mentioned at (ii) above, is confirmed under the provisions of Section 28AA of the Customs Act, 1962;
- d. I impose penalty of **₹15,40,46,243/-** (Rupees Fifteen Crores Forty Lakhs Forty Six Thousand Two Hundred and Forty Three only) on M/s Bharat Electronics Limited, Jalahalli Post, Bengaluru - 560 013 under Section 114A of the Customs Act, 1962. However, in case the duty and interest as determined at (ii) and (iii) above is paid in full within thirty days from the date of

communication of this order, the amount of penalty payable herein shall be twenty-five percent of the duty confirmed at (ii) above (as per the first proviso to Section 114A of Customs Act, 1962).

2.1. Briefly stated the facts of the case are that the appellant is a public sector undertaking engaged in the manufacture of wide range of equipment in the field of defence such as naval systems, electronic warfare, radars, weapon systems, telecom & broadcast systems etc. The appellant had filed three Bills of Entry (BOE, for short) viz. (i) No.6245648 dated 04.08.2016, (ii) No.4275098 dated 29.07.2019 and (iii) No.6147126 dated 19.12.2019 for clearance of goods imported from M/s. Israel Aerospace Industries Ltd., Israel. The details of the item imported against each of the aforesaid BOEs are mentioned as below:-

(i) Under BE No.6245648 dated 04/08/2016

Sl. No.	Item Description	Qty (In Nos)	Unit Price (In USD)	Ass. Value (In Rs.)	Notfn. No. & Date	BC D Rate	BC D	Ed Cess @2%	Ed Cess @1%	SAD 4%	Total Duty (Rs.)
1	TECHNICAL MANUALS- DOCUMENTS, BEPO 4200068255	48	3,330	1,10,02,027	12/2012 - Sl.268	0%	0	0	0	4,40,081	4,40,081
2	SPECIFICATI ON HANDBOOK, BEPO 4200068255	10	15,984	1,10,02,027	12/2012 - Sl.268	0%	0	0	0	4,40,081	4,40,081
3	TECHNICAL MANUALS- DOCUMENTS BEPO 4200068255	48	3,330	1,10,02,027	12/2012 - Sl.268	0%	0	0	0	4,40,081	4,40,081
4	TECHNICAL MANUALS- DOCUMENTS BEPO 4200068255	48	3,330	1,10,01,697	12/2012 - Sl.268	0%	0	0	0	4,40,068	4,40,068
5	MRLS. ISPL, TECHNICAL MANUALS FOR STE - DOCUMENTS, BEPO 4200068255	10	15,984	1,10,02,027	12/2012 - Sl.268	0%	0	0	0	4,40,081	4,40,081

				5,50,09,805		0	0	0	0	22,00,392	22,00,392
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(ii) Under BE No.4275098 dated 29/07/2018 -

DUTY PAID (In Rs.)										
Sl. No.	Item Description	Qty (In Nos)	Unit Price (In USD)	Ass. Value (In Rs.)	Notfn. No. & Date	BCD Rate	BCD	SW Cess @10%	IGST @5%	Total Duty (Rs.)
1	SYSTEM ENGINEER REPORT MANAGEMENT WC, A391111, 800059792	1	53,86,667	37,51,81,357	50/2017 -Sl. 302	5%	1,87,59,068	18,75,907	1,97,90,817	4,40,081
2	SYSTEM ENGINEER REPORT MANAGEMENT MF, A391111, 800050792	10	53,86,667	37,51,81,357	50/2017 -Sl. 302	5%	1,87,59,068	18,75,907	1,97,90,817	4,40,081
				75,03,62,714			3,75,18,136	37,51,814	3,95,81,633	8,08,51,583

(iii) Under BE No.6147126 dated 19/12/2019

DUTY PAID (In Rs.)										
Sl. No.	Item Description	Qty (In Nos)	Unit Price (In USD)	Ass. Value (In Rs.)	Notfn. No. & Date	BCD Rate	BCD	SW Cess @10%	IGST @5%	Total Duty (Rs.)
1	Management Activities Report. A391111, 4100076804	1	47,43,444	34,34,25,346	50/2017 -Sl. 302	5%	1,71,71,267	17,17,127	1,81,15,687	3,70,04,081

2.2. In the BOE dated 04.08.2016, the appellant declared classification of the imported technical documents and handbooks etc. under Customs Tariff Head (CTH) 49070030 and claimed exemption under Sl.No.268 of Notification No.12/2012-Cus. dated 17.03.2012. Also in BOEs dated 29.07.2019 and 19.12.2019 for clearance of various documents, reports declared the classification under CTH 49019900 and claimed exemption

under SIno.302 of Notification No.50/2017-Cus. dated 30.06.2017. Alleging that the correct classification of the aforesaid documents, brochures, handbooks etc. imported by the appellant are classifiable under CTH 49119990, a show-cause notice dated 22.05.2020 was issued proposing to deny the benefit of respective Notifications No.12/2012-Cus. and No.50/2017-Cus. and recovery of differential duty of Rs.15,40,46,243/- under Section 28(4) of the Customs Act, 1962 along with interest and proposal for imposition of penalties. On adjudication, the learned Commissioner passed the above order, which is challenged before this Tribunal.

3.1. At the outset, the learned Senior Advocate for the appellant has submitted that the appellant is a public sector undertaking engaged in the manufacturing of wide range of equipment and supply them to Defence. The appellant had filed three BOEs for import of printed material containing technical details on equipment, machine specifications, reports on the working / management of the equipments etc. pertaining to Schilka Battle Tank (SBT, for short), Long Range Surface to Air Missile (LRSAM, for short) and Multi-Function Surveillance and Threat Alert Radar (MFSTAR, for short) from M/s. Israel Aerospace Industries Ltd., Israel. Initially against the BOE dated 04.08.2016, the goods imported pertained to upgradation of SBT wherein Technical Manuals and Specification Handbooks were imported in the form of printouts along with other equipments in terms of Purchase Order dated 16.06.2011 valued at Rs.5,50,09,805/- and declaring its classification under CTH 49070030. Against BOE dated 29.07.2019, they have imported two items of similar description viz. System Engineering Management Report which provide technical details regarding LRSAM and MFSTAR imported in terms of Purchase Order dated 15.06.2017 valued at Rs.75,03,62,714/- and against BOE dated 19.12.2019, printed materials imported in terms of Purchase

Order dated 26.11.2018 is a report summarising the system engineering activities for Weapon Control System (WCS) and MFSTAR valued at Rs.34,34,25,346/-; declaring the classification of the imported goods under CTH 49019900 in the above two BOEs.

3.2. The learned Senior Advocate has submitted that SBT is an all-weather, lightly armoured, self-propelled, radar guided weapon system. Upgrade Schilka project involves improving the existing tank by installing air conditioning, power steering, improving radar functioning and various other parameters. LRSAM missile systems are installed in Navy ships as defense equipment which consists of MFSTAR and Weapon Control System which are used to intercept various aerial targets. The appellant was nominated by the Ministry of Defence as the lead integrator who would supply LRSAM and MFSTAR systems to Mazagon Dock Shipbuilders Limited for installation on the ships.

3.3. Further explaining the documents imported in brief, he has submitted that against first BOE dated 04.04.2016, they had imported user handbook relating to upgradation of the SBT which was first made in the year 1970. The imports were made in terms of Purchase Order dated 16.06.2011 which includes various other items relating to SBT such as antenna system, radar processor etc. The said manual provides details on the operation of the system, technical manual in various parts containing description of the system, related drawings, its maintenance, assembly and disassembly procedure for sub-systems and general assembly along with technical manual for using test equipment. Against BOE dated 29.07.2019, the appellant had imported hard copies of two System Engineering Management report in box files, which are part of LRSAM and MFSTAR. The first report pertains to WCS which contains records/minutes of the meeting between the Appellant and IAIL

listing the technical and non-technical issues raised and the solutions arrived at. The document also contains technical details on the systems design, modules details, diagrams etc. The second report pertains to MFTSAR which contains records/minutes of the meeting in connection with MFSTAR project along with technical details regarding the safety aspect, antenna layouts, installations etc. The said imports were made in terms of Purchase Order dated 15.06.2017 which also included few other equipments relating to LRSAM and MFSTAR such as special test equipment, WCS, MFSTAR Main equipments, etc. He further submitted that under BOE dated 19.12.2019, the appellant imported 'Management Activities Report' in box files which summarises the management and system engineering activities for WCS & MFSTAR and provides technical details such as block diagrams, assembly, inspection and testing modules, weapon and antenna details etc. The said imports were made in terms of Purchase Order dated 26.11.2018 which also included other equipments such as MFSTAR antenna kit, MFSTAR main equipments among others.

3.4. Learned Senior Advocate has submitted that the imported goods which include various reports and printed materials providing technical details on the functionality of the equipments i.e. SBT, LRSAM and MFSTAR; thus, form a vital part in the proper execution, installation and operation of the equipments imported and are related to the equipments. He has submitted that in terms of Section 14 of the Customs Act, 1962 read with Rule 10(1)(e) of the Customs Valuation Rules, 2007, the transaction value of the imported goods i.e. printed material, reports etc. shall be added to the transaction value of the imported equipments as the imported goods are vital for proper functioning of the equipments and the imported goods on its own does not have any value without the main equipments. In support, they have referred to the judgment in the case of

Bramhani Industries Ltd. Vs. CC(Airport & Air Cargo), Chennai [2018(363) ELT 277 (Tri. Chennai)].

3.5. Further, he has submitted that the imported goods being technical material integral for the purpose of understanding the functioning and execution of the main equipment, the same has to be re-classified along with the main equipment. It is submitted that the benefit of exemption Notification No.19/2019-Cus dated 06.07.2019 being extended to the imports of the main equipment I.e. LRSAM and MFSTAR in terms of the order dated 15.11.2021, the same benefit ought to be extended to the imports made against BOEs dated 29.07.2019 and 19.12.2019.

3.6. Learned Senior advocate has further submitted that the main equipment imported by the appellant are for defence related purposes; therefore, in terms of Notification No.19/2019-Cus dated 06.07.2019 wherein exemption from payment of BCD and IGST in respect of imports of equipments for LRSAM and MFSTAR is admissible; therefore, no duty shall be liable to be paid on the technical documents imported by the appellant. Further, they have referred to the Notification No.02/2025-Customs dated 16.01.2025, which amends Notification No.19/2019 by substituting Sl.No.21 in Column (3), which is: "(II) Systems, sub-systems, equipment, parts, sub-parts, tools, test equipment, software meant for Long Range Surface to Air Missile System (LRSAM)". It is contended that the use of word 'substituted' in Notification No.2/2025 indicates that it is intended to be given retrospective effect. In support, they referred to the judgment in the case of Govt. of India vs. Indian Tobacco Association [2005(187) ELT 162 (SC)]. Further, they have submitted that as per Rule 3(c) of the General Rules of Interpretation, the heading which occurs numerically last must be preferred. Therefore, the imported equipment is classified under CTH 8529. The correct classification should be one that

appears last numerically, which is CTH 8529; hence, the imported technical documents be classified under CTH 8529.

3.7. Further, they have submitted that the imported goods consist of various kinds of printed material which are imported in hard-bound files. As per the appellant, the imported goods are classifiable under CTH 49019900 which includes "other similar printed matter" and not under "printed books". The learned Commissioner wrongly reclassified the imported documents under CTH 49119990 which pertains to "other printed matter including printed pictures and photographs". They have submitted that explanatory notes to Chapter heading 4901 includes textual matter in the form of sheets for binding in a loose-leaf binder. The imported goods contain detailed textual information, diagrams and pictorial representations relating to equipment's operation, maintenance and testing procedures. Thus, the primary details are in the form of printed text and the diagrams are ancillary to the same. The imported goods are in the form of printouts in a plastic or box file; hence, correctly classifiable under CTH 49019900.

3.8. Further, they have submitted that the appellant by a *bona fide* error classified the imported documents under CTH 49070030 against the BOE dated 04.08.2016. The said imports were to be received in CD form which is rightly classifiable under CTH 4907. However, since the same was received in physical form; therefore, merits classification under CTH 49019900. They have submitted that since the appellant had made an advance filing of the BOE; therefore, they could not correct the HSN code. They have submitted that the present issue is squarely covered by the judgment of this Tribunal in the case of Hindustan Aeronautics Limited Vs. The Principal Commissioner of Customs, Bangalore [2024-VIL-1600-CESTAT-BLR-CU]. Also in

support of their submission, they have referred to the following judgments:-

- i. Roto Inks (P) Ltd. Collector of Customs [1990(47) ELT 398 (Tri.)]
- ii. Lakshmi Cement Vs. Collector of Customs, new Delhi [1996(84) ELT 271 (Tri.)]
- iii. CC (General), New Delhi Vs. Gujarat Perstorp Electronics Ltd. [2005(186) ELT 532 (SC)]

3.9. It is further submitted that invocation of extended period of limitation is unwarranted in case of imports under BOE dated 04.08.2016. The Senior Advocate has submitted that the appellant being a public sector undertaking under the Ministry of Defence and the imports were made against filing proper BOE without any misdeclaration of the description of the goods imported as per the invoices, technical write up etc. The appellant has declared its classification under CTH 49019900 as "printed books, brochures, leaflets and similar printed matter" as per their *bona fide* belief; hence, the demand confirmed invoking extended period of limitation by the learned Commissioner cannot be sustained. On similar ground, imposition of penalties also unwarranted.

4. *Per contra*, the learned AR for the Revenue has reiterated the findings of the learned Commissioner. He has submitted that the goods imported are manuals / reports containing engineering analysis, diagrams, technical details and technical engineering documents pertaining to SBT, LRSAM and MFSTAR, which are rightly classifiable under CTH 49119990 as these are printed matter containing complex, sensitive, technical details, diagrams; designs bound by stringent confidentiality agreements meant for appellant's sole and exclusive use for the implementation of defence projects and are not books meant for reading by the general public. In support, he referred to the judgment of this Tribunal in the case of Givo Ltd. Vs. CC

[2014(308) ELT 586 (Tri.)]; CC Vs. Parasrampuriah [2001(133) ELT 9 (SC)] and Century Enka Limited Vs. CC(Import) [2017 (4) TMI 419 – CESTAT MUMBAI].

5. Heard both sides and perused the records.

6. The principal issue involved in the present appeal for consideration is that whether Technical Manuals, Specification Handbooks, reports etc. imported against the BOEs mentioned above are classifiable under CTH 49019900 as claimed by the appellant **OR** under CTH 49119990 as held by the learned Commissioner in the impugned order.

7. Analysing the imported documents, BOE-wise, the learned Commissioner has recorded the following:-

21. It is pertinent to understand the nature of the goods imported by M/s.BEL. The contract entered by the importer, goods imported and their purpose is summarised below.

- i. BE No.6245648 dated 04.08.2016-For Schilka project.
 - a. *Operators Manual*: provides the detailed guidelines on how the various systems installed in the Schilka are to operate. It is an advanced air defense system and is capable of hitting aerial targets. It further consist of instructions on how the fire control system, sensor pedestal, engine, AC and heater, etc among others are to be operated;
 - b. *Equipment Manual*: the said manual focused on how to specify the types of input/output signal to be tested in each of the tested assemblies like the servo drive unit, fire control computer, pedestal, etc. it further lays down the procedure for testing these items.
 - c. Drawings: the said manual lays down the interconnection cabling for the power distribution, audio and video controls, indicators, radar, navigation, etc. The manual contains block

diagrams of the cabling and also details of the power distribution.

- d. *Maintenance*: provides for the maintenance details of each equipment including Schilka's fire control subsystem. The maintenance for the Fire Control subsystem would be done mainly under two categories preventive maintenance and corrective maintenance.

ii. BE No.4275098 dated 29.07.2019-For LRSAM and MFSTAR project.

- a. The documents imported under this BoE were all related to the weapon control system (WCS) for the LRSAM along with MFSTAR. The main purpose of these documents is to summarize the management and system engineering activities for the WCS.
- b. A few of the documents that were a part of this report included the details of the meeting conducted, ship survey, details regarding the lab facilities, risk management, etc. Additionally, the report also includes details of the IDS activities, details of the internal simulators, RFI analysis, plans detailing about quality assurance and also details of various other meetings and activities held.
- c. With respect to LRSAM, the report also included information on the communication, controls and cabling. It includes a safety procedure prescribed for situations when there is a failure in missile launch and also a WCS software. The minutes of the meeting held between IAIL and the Noticee for the purpose of discussions related to LRSAM are also a part of the said report imported.

iii. BE No.6147126 dated 19.12.2019 -For LRSAM and MFSTAR project.

- a. The printed materials imported under the said BoE were reports for the management and system engineering for MFSTAR. The said report is a continuation of the report which summarizes the management and system engineering activities for LRSAM.

- b. Information contained in this report consisted of the meeting details between IAIL and the Noticee, the ship survey reports, a technical meeting that was undertaken regarding the said equipments and its functionality, lab facilities, etc.
- c. With respect to the MFSTAR, the report includes the system overview of the equipment, details on the architecture of the system and the implementation of the multi beam, among others.

22. The imported documents are not drawings / plans in original but are printouts containing complex sensitive technical and classified confidential details for defence projects; also containing technical details / diagrams / designs and are bound by stringent confidentiality agreements; are not books meant for reading by general public but are meant for M/s.BEL's sole and exclusive use for the implementation of the defence project; The above goods are referred as Technical / Engineering documents, in short, hereinafter.

8. In the impugned order, the learned Commissioner referring to the judgment of the Hon'ble Supreme Court in the case of CC Vs. Parasrampur (supra) observed that the technical and engineering documents imported by the appellant are not printed material attracting classification under CTH 4901 as books but these are confidential documents supplied under agreement with M/s. Israel Aerospace Industries Ltd. meant for specific purposes of upgradation and fitting of SBT, LRSAM and MFSTAR; hence, correctly classifiable under CTH 4911.

9. We find that in more or less similar circumstances, this Tribunal while considering the classification of technical documents imported by M/s. Hindustan Aeronautics Limited relating to testing and upgradation of the Jaguar aircrafts also subjected to strict confidentiality agreement and not for general public, arrived at the conclusion that the said imported technical write-ups, documents, manuals etc. are classifiable under CTH 4901. Analysing the principles laid down in the judgments of

Hon'ble Supreme Court in the cases of CC, New Delhi Vs. Parasrampuriah Synthetics Ltd. (supra); Givo Ltd. Vs. CC, New Delhi (supra); CC (General), New Delhi Vs. Gujarat Perstorp Electronics Ltd. (supra) and of the Tribunal in the case of Quest Life Sciences P. Ltd. Vs. CC, Chennai [2015(325) ELT 759 (Tri. Chennai)]. This Tribunal observed as follows:-

8. The principal issue for determination in the present case is: whether the imported good viz. technical documents are classifiable under CTH 49019900/49011010 and the appellant are entitled to benefit of Notification No.50/2017-Cus. dated 30.06.2017(SI. No.302).

9. The details of technical documents mentioned in the respective Purchase Orders/ Bill of Entry are as follows:-

ELBIT documents

Milestone-1:

System Requirement Review documents for Helmet Mounted Display System (HMDS) comprises the HMD design requirements, Installation guidelines of its sub-systems, interface requirements including control and symbology development. These documents are proprietary documents of M/s ELBIT and very technical in nature for integration of HMDS with avionics systems of aircraft.

Milestone-2

Interface Control Documents (ICDs) of HMD System includes the Electrical ICD, Mechanical ICD, and Data (SW) ICD. Electrical ICD provides the details of required electrical signals at connector level for HMD system and Mechanical ICD provides the details about dimensions of system and its installation requirements on aircraft. Further Data ICD provides the details about data transfer requirement between HMD system and aircraft control and display systems. These documents are typically technical and proprietary documents of M/s ELBIT and are for specific use for integration on Jaguar DARIN platform.

Milestone-2

Algorithm Description document for Dynamic Launch of ASRAAM missile consists of the definitions of algorithm which will be used to characterise the kinematic performance of missile. DLZ algorithm, highly technical in nature, produces the estimates of kinematic missile performance in terms of maximum and minimum range of missile. This definition document facilitates the development of mission computer software for accuracies of missile launch and hitting the target. Algorithm Description document is proprietary document and

tailored to use on Jaguar DARIN platform. It is typically classified as technical document

ONERA documents

ONERA has carried out for HAL experimental and analysis works relative to the spin prediction of the HTT-40 trainer aircraft. In this framework software tools are provided to the customer for his own flight dynamics studies. Tools consist in Matlab scripts which enable parametric time simulations of the aircraft behaviour in flight, based on the aerodynamic model identified from wind tunnel rotary tests. The present document is the user manual detailing the main features of the software, the installation process and the parametrization. Some test cases are provided.

10. The relevant entry of the said Notification No.50/2017-Cus. dated 30.06.2017 under which exemption has been claimed reads as follows:-

S. No.	Chapter or Heading or sub-heading or tariff item	Description of goods	Standard rate	Integrated Goods and Services Tax	Condition No.
(1)	(2)	(3)	(4)	(5)	(6)
301.	Any Chapter	Commercial catalogues in book form	Nil	-	-
302.	49011010, 49019100 or 49019900	Printed books (including covers for printed books) and printed manuals, in bound form or in loose-leaf form with binder, executed on paper or any other material including transparencies	Nil	-	-

11. The Revenue denied the benefit of the said notification alleging that the goods imported by the appellant do not fall under the scope of CTH 49019900/49011010 but classifiable under CTH

49119990, which is not included under SI.No.302 of the said Notification. Therefore, it is essential to determine the appropriate classification of the imported technical documents.

12. The competing entries viz. 4901 & 4911 read as follows:-

Chapter heading 4901

Tariff item	Description	Unit	Rate of duty	Preferential areas
(1)	(2)	(3)	(4)	
4901	PRINTED BOOKS, BROCHURES, LEAFLETS AND SIMILAR PRINTED MATTER, WHETHER OR NOT IN SINGLE SHEETS			
4901 10		U	10%	
4901 10 10		U	10%	
4901 99 00	- In single sheets, whether or not folded -- Printed books -- Other	U	10%	

Chapter heading 4911

Tariff item	Description	Unit	Rate of duty	Preferential areas
(1)	(2)	(3)	(4)	
4911	OTHER PRINTED MATTER, INCLUDING PRINTED PICTURES AND PHOTOGRAPHS			
4911 99 90	--- Other	Kg.	10%	

13. As mentioned earlier, the imported goods comprise of technical documents and test reports which the Department classified under residuary entry CTH 49119990 mainly placing reliance on the judgement of the Hon'ble Supreme Court in the case of CC, New Delhi Vs. Parasrampuriah Synthetics Ltd. and Tribunal's decision in the case of Givo Ltd. (supra). The appellant on other hand vehemently argued that the facts involved in the said cases are different from the facts and circumstances of the present case; hence the ratio laid down by the Hon'ble

Supreme Court in the Parasrampuriah Synthetics Ltd.'s case and Tribunal in Givo Ltd.'s case cannot be applied to the present case. Also, it is submitted that the principle laid down by two Judges Bench in Parasrampuriah Synthetics Ltd.'s case has been distinguished by the three Judges Bench of the Hon'ble Supreme Court in Gujrat Perstorp Electronics Ltd.(supra) and matter remanded to the Tribunal for deciding the issue in accordance with the observations recorded in the said case.

14. The facts in Parasrampuriah's case are that the respondent therein imported printed drawings, designs and plans under an agreement for transfer of technology for the purpose of setting up of a plant for manufacture of Polyester, Polyester Filament Yarn and Polyester Staple Fibre claiming the benefit of Sl.No.10 of Notification No.25/1995-Cus. dated 16.03.1995. The Revenue authorities sought to classify the imported goods under Chapter 49.11 and denied the benefit of the said notification. In the context of the Notification No.25/1995-Cus., the Hon'ble Apex Court, framing the issue, observed as :

5. Significantly, in this appeal, we have to decipher the true intent and meaning of the words "printed books" and "manuals" as covered under Serial No. 10 as also "plan", 'drawing' and 'designs' as covered under Serial No. 15 of the concerned notification.

Thereafter, their Lordships observed as follow:-

6. Let us first analyse as to the true grammatical meaning of the words included in Sl. No. 15 to wit : "plan, drawings and design", "Plan" in common acceptation means 'a drawing or diagram made by projections on horizontal plane'. The Law Lexicon attributes it to be a design or a sketch and is a draft or form of representation and its synonyms are sketch and design. Corpus Juris Secundum (Vol. 70) attributes a meaning in the similar vein as 'a draft or form or representation of a horizontal section of anything, as of machinery; a map a scheme; a project; also a method of action, procedure, or arrangement.

7. The word 'drawing' in common acceptation however, mean and include 'art of representing by line, delineation without colour or with single colour' and Corpus Juris Secundum defines it as meaning a representation on a plane surface, by means of lines and shades.

8. The third expression viz., 'design' in popular parlance is used as a synonym with plan and includes a sketch. Some times it has also been held to be synonymous with 'figure'.

The expression 'design' has within its ambit many facets including a criminal design which connotes an evil desire, obviously exemption notification cannot possibly mean and imply a meaning which can be attributed to be an evil one.

9. The three words 'plan, drawing and design' however, convey more or less a common attribution and identical meaning, though however, in a larger spectrum, three words used in the exemption notification have three individual attribute by reason wherefor, legislature it fit to specifically refer to each of these words.

10. Turning attention on to Serial No. 10, be it noted that in Chapter 49 'printed books' and 'printed manuals' including those in loose-leaf form with binder, has been specifically referred to a 'Nil' duty article. It is in this context that the learned Attorney General in support of the appeal contended that in general trade parlance a book is known by feature like (i) a book has an author, (ii) A book has a publisher, (iii) A book is a priced publication, (iv) The book is available to all and sundry who pay for it, (v) The book does not have a Memorandum of Understanding; (vi) There is no confidentiality about the book; (vii) A book has a subject to deal with; (viii) the pages are serially numbered and neatly bound; and (ix) the last but not the least, it should have ISBN Code i.e. International Books Subscriber Nomenclature.

Further, recording reasons why it should not come under the scope of Sl.No.10 of the Notification, it is observed as follows:-

17. The question thus, arises as to whether articles imported satisfy the requirement of Serial No. 10 of the Notification. Incidentally, this Court in *Scientific Engineering* (supra) categorically posed a question as to whether apart from the physical form, the documents satisfy the functional test. Basic issue thus would be the nature of articles imported : now what these documents are. Admittedly in terms of the agreement between the parties, these documents cannot but be attributed to be technical know-how in the shape of drawing, design, plan and other literature. It is a literature of specification for a particular plant to manufacture Polyester, Polyester Filament Yarn and Polyester Staple Fibre. Even without adverting to the general trade parlance of the word 'book' and its known features, a plain look at the book itself denotes it to be a Installation and Planning Manual. The documents though loosely kept in a binder is known as Zimmer Documentation as regards the Fisher-Rosemount Systems. It is a technology transfer agreement which stands documented in a folder. The heading itself record "Installing CHIP Products and Application Software". The heading itself thus, indicative of not being a work of art by an author - it is a record of

scientific progress achieved and this particular achievement is being transferred by way of Transfer of Technology Agreement between the two parties and thus, cannot but be termed to be a “technical know-how in the shape of a drawings, designs, charts, plans and other literature” - these items have been ascribed to be a part of the plant for the purposes of Depreciation Allowance in terms of Sections 32 and 43(3) of the Income-tax Act. Merely by reason of the factum of certain writings on various sheets of papers one cannot ascribe the documentation to be a ‘book’. The word ‘book’ has not been defined in the Act but the ‘book’ in common acceptance is a literary composition from which one may extend or advance his or her knowledge and learning.

15. The aforesaid observation has been considered by the Supreme Court in the case of CC (General), New Delhi Vs. Gujarat Perstorp Electronics Ltd. (supra). In this case, the appellant engaged in the manufacture of Polyester Chips (High Pressure and Moulding Grades) and other Polyethylene Terephthalate (PET) Bottle Grade and Film Grade. For the purpose of the said products, the company set up a plant in Maharashtra which was set up on the basis of technical know-how provided to them. For that, the company entered into a ‘Know-How’ and ‘Basic Engineering Agreement’ with M/s. Zimmer AG of Germany. The case of the Department was that the Front End Engineering Package (FEED) and drawings, designs and plans supplied to them by the oversee entity should be classified under Chapter 49.11 and chargeable to duty. The Commissioner classified the imported FEED, drawings, designs and plans under Chapter sub-heading 4911.99, which was challenged before the Tribunal. The Tribunal following Larger Bench decision in the case of Parasrampuriah Synthetics Ltd. Vs. CC, New Delhi [2000(119) ELT 211 (Tri. LB)] held that the printed materials could be said to be books covered under Chapter heading 49.01 and entitled to exemption. Revenue challenged the said order before the Hon’ble Supreme Court. The following issues were raised before the Hon’ble Supreme Court:-

16. At the time of hearing of appeals, the learned Counsel for the appellant stated that three questions arise for consideration of this Court :

(i) Whether the goods imported by the Company in the form FEED (Front End Engineering Package) comprising of technical documentation, designs and drawings are classifiable under Chapter sub-heading 4911.99 of the Customs Tariff?

(ii) Whether the goods imported by the appellant in the form of know-how containing latest up-to-date technical data and information including secret technical knowledge relating to the processes and their employment to the design, operation and maintenance of the plant, are classifiable under Chapter sub-heading 4901.99 of the Customs Tariff?

(iii) Whether goods, as described in (a) & (b) above, can be considered as "Printed Book" classifiable under Chapter 49 of the Customs Tariff in order to avail the benefit of Notification Nos. 107/93-Cus. and 38/94-Cus.?"

16. After analysing the Chapter Notes and HSN Notes of Chapter Heading 49.01 and 49.11, the relevant exemption Notifications, the three Judge Bench of the Hon'ble Apex Court proceeded to examine the two Bench judgment in the case of CC, New Delhi Vs. Parasrampuriah Synthetics Ltd. (supra) and observed as follows:-

31. No doubt this Court in an appeal against the order passed by the Larger Bench reversed the decision of CEGAT. The question, however, is whether the order passed by a two Judge Bench in *Parasrampuriah Synthetics Ltd.* lays down correct law on the point.

Analysing the judgments of various courts and also the dictionary meaning of 'book', their Lordships observed as:-

50. In our opinion, the Counsel is right in submitting that when the expression 'book' is not defined in the Act, natural and ordinary meaning of the said expression must be kept in view. According to him, nowhere it is provided that all the nine characteristics or ingredients as highlighted by the learned Attorney General in *Parasrampuriah Synthetics Ltd.* and referred to by this Court in paragraph 10 must be considered essential or *sine qua non*. He, therefore, submitted that a wrong test was applied by this Court in *Parasrampuriah Synthetics Ltd.* and *Scientific Engineering House Ltd.* was erroneously distinguished. The proper way on the part of the Court was to consider the test laid down in *Scientific Engineering House Ltd.* and to come to a conclusion whether on the facts and in the circumstances of the case, Drawings, Designs and Plans in the case on hand could be said to be 'book'. By not doing so, a clear error of law had been committed and the decision deserves to be overruled.

51. It was also submitted that so far as factual aspect is concerned, CEGAT was right in holding that Drawings, Designs and Plans imported by the assessee were covered by Tariff Heading 49.01 and were also entitled to exemption under Notifications No. 107/93-Cus. and 38/94-Cus.

Alternatively, it was submitted that if this Court is of the view that CEGAT has not entered into the said question in view of the Larger Bench decision, the matter may be remitted to CEGAT directing it to consider the case afresh by applying correct test and to take an appropriate decision.

52. The learned Counsel for the Revenue submitted that *Elecon Engineers Ltd.* and *Scientific Engineering Housing Ltd.* were rendered in different context. The basic issue was – whether ‘books’ were covered by the entry ‘plant’ under the Income Tax Act. Those decisions, therefore, have no relevance to the issue in question since the entries are different. It was also submitted that since the article in question was to be used by the assessee and was prepared according to his requirement, it had no utility to others. Hence, it cannot be said to be a ‘book’ in general sense. It was argued that this Court has considered the factual position in *Parasrampuriah Synthetics Ltd.* and held that the article was not a book. It would not, therefore, be appropriate to hold otherwise in the present case.

After analysing the judgment in *Parasrampuriah Synthetics Ltd.*’s case, their Lordships observed as follows:-

53. In our opinion, all these questions have to be considered and decided by the CEGAT in the fact-situation of the case in hand. As already noted by us, some of the tests applied in *Parasrampuriah Synthetics Ltd.* were not relevant and appropriate. The CEGAT will now consider the ratio in *Parasrampuriah Synthetics Ltd.* in the light of the observations made by us in this judgment and decide the issue raised in the instant case.

Further, laying down the guidelines in arriving at the correct classification of the goods between Chapter 4901 and 4911, their Lordships observed as follows:-

54. The matter could be looked at from another angle also. As noted earlier, HSN has dealt with the point and as per Explanatory Note, it would fall under Chapter Heading 49.01. If it is so, it would not be covered by sub-heading 4911.99.

55. In this connection, we may refer to a three-Judge Bench decision of this Court in *Collector of Central Excise, Shillong v. Wood Craft Products Ltd.* - [1995 \(77\) E.L.T. 23](#) (S.C.) = (1995) 3 SCC 454. The Court, in that case, considered the question whether ‘plywood’ was classifiable under sub-heading 4408.90 or sub-heading 4410.90? HSN Explanatory Notes was considered by this Court and it was observed; “We are of the view that the Tribunal as well as the High Court fell into the error of overlooking the fact that the structure of the Central Excise Tariff is based on the internationally accepted nomenclature found in the HSN

and, therefore, any dispute relating to tariff classification must, as far as possible, be resolved with reference to the nomenclature indicated by the HSN unless there be an express different intention indicated by the Central Excise Tariff Act, 1985 itself. The definition of a term in the ISI Glossary, which has a different purpose, cannot in case of a conflict, override the clear indication of the meaning of an identical expression in the same context in the HSN. In the HSN, block board is included within the meaning of the expression “similar laminated wood” in the same context of classification of block board. Since the Central Excise Tariff Act, 1985 is enacted on the basis and pattern of the HSN, the same expression used in the Act must, as far as practicable, be construed to have the meaning which is expressly given to it in the HSN when there is no indication in the Indian tariff of a different intention.”

56. The ratio laid down in *Wood Craft Products Ltd.* was followed and reiterated in *Collector of Central Excise, Hyderabad v. Bakelite Hylam Ltd.*, [1997 \(91\) E.L.T. 13](#) (S.C.) = (1997) 10 SCC 350 and in *Collector of Customs, Bombay v. Business Forms Ltd. Thr. O.L.*, [2002 \(142\) E.L.T. 18](#) (S.C.). Hence, even that aspect has to be considered and kept in mind while deciding as to whether Drawings, Designs and Plans could or could not be said to be ‘printed book’ covered by Chapter Heading 49.01, 49.06 or sub-heading 4911.99?

57. There is still one more aspect which is relevant. It cannot be disputed and is not disputed before us and is also concluded by a decision of a three Judge Bench in *Associated Cement Co. Ltd.* that the basic heading is 49.01. It deals with “Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets”. 49.11 covers “Other printed matter, including printed pictures and photographs”. Thus, specific or basic heading is 49.01 and residual entry is 49.11. Priority, therefore, has to be given to the main entry and not the residual entry. According to the Company, the case is covered by the main entry under 49.01, and in that view of the matter, one cannot consider the residual entry 49.11.

Finally, while remanding the matter, it is observed as:-

60. In our considered opinion, all these contentions raised by the assessee have to be dealt with and decided in the light of relevant statutory provisions of the Act and the Rules as also on the basis of decided cases on the point. As CEGAT has disposed of all the appeals merely on the basis of Larger Bench decision in *Parasrampuriah Synthetics Ltd.* and has not considered rival contentions on merits nor recorded findings thereon, it would be appropriate and in the fitness of things to remit the matters to CEGAT, now to Customs, Excise and Service Tax Appellate Tribunal (CESTAT) to decide them on all points in accordance with law in the light of observations made in this judgment.

17. A plain reading of aforesaid observations of the Hon'ble Supreme Court, it is crystal clear that while deciding the classification of technical materials/literatures, drawings, designs, plans etc. as to whether the same would fall under the Chapter heading 49.01 or under 49.11, due emphasis should be given to HSN notes of relevant sub-headings; and also it should be borne in mind keeping in view the ratio of Three Bench decision in the case of Associated Cement Companies Ltd. Vs. CC [2001(128) ELT 21 (SC)] that the basic heading is 49.01 for printed books, brochures, leaflets and other printed matters, and 49.11 covers "other printed matters including printed pictures and photographs", the residuary entry; thus between the specific entry 49.01 and the residual entry 49.11, priority is to be given to the specific entry and not to the residual entry

18. Analysing the present facts in the light of the above observation of the Hon'ble Supreme Court, it is relevant to refer and analyse the HSN explanatory Notes of Chapter 49.01 & 49.11 which are as below:

HSN Notes 49.01:

This heading covers virtually all publications and printed reading matter, illustrated or not, with the exception of publicity matter and products more specifically covered by other headings of the Chapter (particularly heading 49.02, 49.03 or 49.04). It includes:

(A) Books and booklets consisting essentially of textual matter of any kind, and printed in any language or characters, including Braille or shorthand. They include literary works of all kinds, text-books (including educational workbooks sometimes called writing books), with or without narrative texts, which contain questions or exercises (usually with spaces for completion in manuscript); technical publications; books of reference such as dictionaries, encyclopaedias and directories (e.g., telephone directories, including "yellow pages"); catalogues for museums and public libraries (but not trade catalogues); liturgical books such as prayer books and hymn books (other than music hymn books of heading 49.04); children's books (other than children's picture, drawing or colouring books of heading 49.03). Such books may be bound (in paper or with soft or stiff covers) in one or more volumes, or may be in the form of printed sheets comprising the whole or a part of the complete work and designed for binding.

Dust covers, clasps, book-marks and other minor accessories supplied with the books are regarded as forming part of the book.

(B) Brochures, pamphlets and leaflets, whether consisting of several sheets of reading matter fastened together (e.g., stapled), or of unfastened sheets, or even of single sheets.

These include publications such as shorter scientific theses and monographs, instruction notices, etc., issued by government departments or other bodies, tracts, hymn sheets, etc.

This group excludes printed cards bearing personal greetings, messages or announcements (heading 49.09), and printed forms which require the insertion of certain additional information for completion (heading 49.11).

(C) Textual matter in the form of sheets for binding in loose-leaf binders.

The heading also covers:

(1) Newspapers, journals and periodicals bound otherwise than in paper, and sets of newspapers, journals or periodicals comprising more than one number under a single cover, whether or not containing advertising material.

(2) Bound picture books (other than children's picture books of heading 49.03).

(3) A collection of printed reproductions of works of art, drawings, etc., with a relative text (for example, a biography of the artist), put up with numbered pages and forming a whole suitable for binding.

(4) A pictorial supplement accompanying, and subsidiary to, a bound volume containing the relative text.

Other pictorial publications are excluded and generally fall in heading 49.11.

Subject to Chapter Note 3, the heading also excludes all publications essentially devoted to advertising (including tourist propaganda) and those which are published by or on behalf of a trader for publicity purposes, even though those of the latter kind may consist of matter not of direct advertising value such advertising publications include, for example, trade catalogues, year books published by trade associations containing a certain amount of informative matter, together with a substantial number of advertisements by members of the association and publications drawing attention to the products or services supplied by the publisher. The heading also does not cover publications containing indirect or concealed publicity i.e. publications which, though essentially devoted to advertising,

are so presented as to make it seem that advertising is not the intended purpose.

On the other hand, such publications as scientific theses published by or for industrial firms and those publications merely describing trends or progress or activity in a particular branch of commerce or industry, but not having direct or indirect publicity value may fall in this heading

The heading further excludes:

- (a) Copying and transfer papers, bearing texts or designs for reproduction, bound in sequence (heading 48.16).
- (b) Diaries and other stationery books of heading 48.20, that is those which are essentially for completion in manuscript or typescript.
- (c) Newspapers, journals and periodicals in single copies, unbound or bound only in paper (heading 49.02).
- (d) Children's workbooks consisting essentially of pictures with complementary texts, for writing or other exercises (heading 49.03).
- (e) Music books (heading 49.04).
- (f) Atlases (heading 49.05).
- (g) Parts of books, whether in the form of signatures or separate sheets, consisting of pictorial matter without a printed text (heading 49.11).

HSN Notes to Chapter heading 49.11:

This heading covers all printed matter (including photographs and printed pictures) of this Chapter (see the General Explanatory Note above) but not more particularly covered by any of the preceding headings of the Chapter.

Framed pictures and photographs remain classified in this heading when the essential character of the whole is given by the pictures or photographs; in other cases such articles are to be classified in the heading appropriate to the frames, as articles of wood, metal, etc.

Certain printed articles may be intended for completion in manuscript or typescript at the time of use but remain in this heading provided they are essentially printed matter (see Note 12 to Chapter 48). Thus, printed forms (e.g., magazine subscription forms), blank multi-coupon travel (e.g., air, rail and coach) tickets, circular letters, identity documents and cards and other articles printed with messages, notices, etc., requiring only the insertion of

particulars (e.g., dates and names) are classified in this heading. Stock, share or bond certificates and similar documents of title and cheque forms, which also require completion and validation are, however, classified in heading 49.07.

On the other hand, certain articles of stationery with printing which is merely incidental to their primary use for writing or typing are classified in Chapter 48 (see Note 12 to Chapter 48 and in particular the Explanatory Notes to headings 48.17 and 48.20).

The heading includes the following in addition to the more obvious products:

(1) Advertising matter (including posters), year books and similar publications devoted essentially to advertising, trade catalogues of all kinds (including book or music publishers' lists, and catalogues of works of art) and tourist propaganda, Newspapers, periodicals and journals, whether or not containing advertising material, are however excluded (heading 49.01 or 49.02, as appropriate).

(2) Brochures containing the programme of a circus, sporting event, opera, play or similar presentation.

(3) Printed calendar backs with or without illustrations.

(4) Schematic maps.

(5) Anatomical, botanical, etc., instructional charts and diagrams.

(6) Tickets for admission to places of entertainment (e.g., cinemas, theatres and concerts), tickets for travel by public or private transport and other similar tickets.

(7) Microcopies on opaque bases of the articles of this Chapter.

(8) Screens made by printing a film of plastics with letters or symbols to be cut out for use in design work.

Such screens simply printed with dots, lines or squares are excluded (Chapter 39).

(9) Maximum cards and illustrated first-day covers not bearing postage stamps (see also Part (D) of the Explanatory Note to heading 97.04).

(10) Self-adhesive printed stickers designed to be used, for example, for publicity, advertising or mere decoration, e.g., "comic stickers" and "window stickers".

(II) Lottery tickets, "scratch cards", raffle tickets and tombola tickets.

The following articles, in particular, are also excluded from this heading:

(a) Photographic negatives or positives on films or plates (heading 37.05).

(b) Goods of heading 39.18, 39.19, 48.14 or 48.21 or printed paper products of Chapter 48 in which the printed characters or pictures are merely incidental to the primary use of the products.

(c) Letters, numbers, sign-plates and similar motifs for shop signs and shop windows, bearing a prime picture or text, of ceramics, of glass, or of base metal, which are classifiable in headings 69.14 7033 and 83.10 respectively, or in heading 94.05 if illuminated.

(d) Decorative glass mirrors, whether or not framed, with printed illustrations on one surface (heading 70.09 or 70.13).

(e) Printed "smart cards" (including proximity cards or tags) as defined in Note 4 (b) to Chapter 15 (heading 85.23).

(f) Printed dials of instruments or apparatus of Chapter 90 or 91.

(g) Printed paper toys (e.g., children's cut-out sheets), playing cards and the like, and other printed games (Chapter 95).

(h) Original engravings, prints and lithographs, of heading 97.02, that is, impressions produced directly, black and white or in colour, of one or of several plates wholly executed by hand by the artist irrespective of the process or of the material employed by him, but not including any mechanical photo-mechanical process.

19. A careful reading of the HSN Notes relevant to Chapter 49.01, it could be discerned that Clause (A) explains books and booklets consisting essentially of textual matter of any kind, and printed in any language or characters, including Braille or shorthand. What has included also explained in the said Clause. More particularly, Clause (B) explains brochures, pamphlets and leaflets, whether consisting of several sheets or reading matter fastened together (e.g. stapled), or of unfastened sheets, or even of single sheets. These include publications such as: shorter scientific theses and monographs, instruction notices, etc., issued by Government department or other bodies; the exclusions under it mentions printed cards

bearing personal greetings, messages or announcements (heading 49.09) and printed forms which require the insertion of certain additional information for completion (heading 49.11); Clause (C) covers textual matter in the form of sheets for binding in loose-leaf binders. On a plain reading of the above explanations, it can safely be inferred that nowhere, it mentions that it should be a publication for use of general public only and do not applicable to materials, technical and test materials for particular use. Therefore, restricting the heading 49.01 only to printed books which are publication for general use and having all the nine features like (i) a book has an author, (ii) A book has a publisher, (iii) A book is a priced publication, (iv) The book is available to all and sundry who pay for it, (v) The book does not have a Memorandum of Understanding; (vi) There is no confidentiality about the book; (vii) A book has a subject to deal with; (viii) the pages are serially numbered and neatly bound; and (ix) the last but not the least, it should have ISBN Code i.e. International Books Subscriber Nomenclature, and not applicable to technical literatures useful for the operations of the machines and other purposes, test results for future research, short theses, in our opinion, cannot be in consonance with the meaning provided under the HSN Notes for Chapter 49.01.

20. The above understanding would become more clear when we read the HSN Notes of the residuary entry CTH 49.11. The said Chapter heading 49.11 covers all printed matters which are not broadly covered by any of the preceding headings of the Chapter. The examples mentioned in the said headings do not include printed paper sheets of test results or technical literatures reduced into writing after undertaking various functional tests of the machineries etc. The Hon'ble Supreme Court in the aforesaid judgment very clearly laid down that a specific entry be preferred than the residual entry and observed that for the printed books and materials the basic entry is 49.01 and residuary entry is 49.11. In the present case, the technical reports, test results etc. imported by the appellant which more or less akin to research papers rightly classifiable under Chapter heading 49.01 rather than the residual Chapter heading No.49.11 of the Central Excise Tariff Act, 1985.

21. In Givo Ltd.'s case(supra), the question before the Tribunal was whether drawings, designs and

technical documents classifying under Chapter heading 98.03 imported through courier, as part of the technical collaboration agreement meant for supply of plant and equipment be subjected to duty. In that context, analysing the collaboration agreement, the Tribunal held as follows:-

26. The drawings, designs and technical documents are no doubt goods being integrally connected with the plant and machinery and not classifiable under CTH 49.01. In the present case, those were inevitable necessity of the capital goods to come into existence. Inseparability of each other was their virtue. Therefore, it does not appeal to commonsense to treat the import consignment independent of plant and machinery to be called "book".

The Tribunal considering the imported technical documents as part of the Plant of machinery held to be not as books. It has not examined the issue referring to the HSN notes on the competing entries and the principle laid down by the Supreme Court in remanding the case to the Tribunal in Gujarat Perstorp Electronics Ltd. (supra), hence distinguishable and cannot be applied to the facts of the present case.

22. On the other hand, the Tribunal in the case of Quest Life Sciences P. Ltd. Vs. CC, Chennai [2015(325) ELT 759 (Tri. Chennai)] following the principle laid down by the Hon'ble Supreme Court in the case of Commissioner Vs. Gujarat Perstorp Electronics Ltd. (supra) observed that clinical bio analytical statistics and data in printed form fall under Chapter 49.01 of the Customs Tariff Act, 1975.

23. In view of the above, the imported technical documents are rightly classifiable under chapter sub-heading 49019900/49011010 and not under 49119990 of Customs Tariff Act, 1975 and accordingly fall within the scope of Sl. No.302 of Notification No. 50/2017-Cus. dated 30.06.2017. In the result the impugned Orders are set aside and the appeals are allowed with consequential relief, if any, as per law.

10. The technical documents, reports etc. imported in the present case are more or less similar to the documents analysed in Hindustan Aeronautics Limited's case. Therefore, applying the said judgment to the facts of the present case, we are of the view that the imported technical documents etc. are correctly classifiable under CTH 49019900 and the appellant are eligible to

the benefit of Notification No.12/2012-Cus. dated 17.03.2012 and No.50/2017-Cus. dated 30.06.2017. As we have concluded that the appropriate classification of the imported goods is under CTH 4901 and consequently the benefit of the Notifications No. 12/2012-Cus. dated 17.03.2012 and No.50/2017-Cus. dated 30.06.2017 are admissible against all the imports, the other alternative arguments advanced before us become academic; hence, not delved into. In the result, the impugned order is set aside and the appeal is allowed with consequential relief, if any, as per law.

(Order pronounced in Open Court on 17.03.2026)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R BHAGYA DEVI)
MEMBER (TECHNICAL)

Raja...