

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

REGIONAL BENCH – COURT No. III

Customs Appeal No. 41805 of 2014

(Arising out of Order-in-Appeal C.Cus. Nos. 292 & 293/2014 dated 21.02.2014 passed by Commissioner of Customs (Appeals), No. 60, Custom House, Rajaji Salai, Chennai – 600 001)

M/s. Akshay Impex

No. 7, Nyniappa Naicken Street,
2nd Floor, Chennai – 600 003.

...Appellant

Versus

Commissioner of Customs

Chennai II Commissionerate,
No. 60, Custom House,
Rajaji Salai,
Chennai – 600 001.

...Respondent

APPEARANCE:

For the Appellant : Mr. A.K. Jayaraj, Advocate

For the Respondent : Mr. Vineet Goyal, Authorised Representative

CORAM:

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)

HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER No. 40481 / 2026

DATE OF HEARING : 05.01.2026

DATE OF DECISION : 10.04.2026

Per Mr. VASA SESHAGIRI RAO

In the present matter, the appellant filed two refund claims under Notification No. 102/2007-Cus dated 14.09.2007 seeking refund of Special Additional Duty (SAD) paid at the time of import. Both claims were rejected by separate Orders-in-Original dated 08.10.2012 passed by the Deputy Commissioner. In Order-in-Original No. 19513/12, the refund claim of Rs.2,51,046/- relating to import of

coated art board/coated board was rejected, and in Order-in-Original No. 19521/12 the refund claim of Rs.2,63,572/- relating to art coated paper/printing paper was similarly rejected. The adjudicating authority held that the condition prescribed under paragraph 2(b) of Notification No. 102/2007-Cus was not fulfilled, observing that the sales invoices did not contain proper endorsement regarding non-admissibility of credit of SAD and that discrepancies existed between the invoices submitted for refund and those obtained from buyers, though payment of SAD and VAT was not in dispute.

1.2 The brief facts of the case are that the appellant imported the goods on payment of applicable customs duties including Special Additional Duty (SAD) at 4% and subsequently sold the goods in the domestic market on payment of VAT/Sales Tax.. Refund applications were filed within the prescribed time enclosing copies of Bills of Entry, duty payment challans, sales invoices, VAT returns, Chartered Accountant certificates correlating imports with sales and certifying non-passing of duty incidence, along with supporting records. However, the Deputy Commissioner rejected the claims on the ground of non-compliance with paragraph 2(b) of the Notification. Aggrieved by the said orders, the appellant preferred appeals before the

Commissioner of Customs (Appeals), Chennai, who by common Order-in-Appeal No. 292 & 293/2014 dated 21.02.2014 upheld the rejection orders.

2. Being aggrieved by the said common order sustaining rejection of both refund claims, the appellant has filed the present appeals before this Tribunal.

3. The Ld. Advocate Mr. A.K. Jayaraj appeared on behalf of the Appellant and advanced detailed submissions in support of the Appeals and the Ld. Authorized Representative Mr. Vineet Goyal appeared for the Revenue and defended the Impugned Orders.

4. The Ld. Advocate Mr. A.K. Jayaraj made the following submissions: -

4.1 It was contended that original importer's copies of Bills of Entry and TR-6 challans were produced; the sales invoices clearly bore the endorsement that "No credit of additional duty of customs levied under sub-section (5) of Section 3 of the Customs Tariff Act shall be admissible"; VAT payment was evidenced through returns and Chartered Accountant certification; and correlation between imported goods and goods sold was duly established.

4.2 It was further submitted that substantial compliance of the conditions of Notification is sufficient and procedural variations cannot defeat refund of a beneficial exemption.

5. *Per contra*, the Ld. Authorized Representative reiterated the findings contained in the impugned orders and submitted that the appellant had not complied with the mandatory condition prescribed under paragraph 2(b) of Notification No.102/2007-Cus.

6. Upon hearing both sides and perusing the records, we find that the issue before us lies in a narrow compass, namely whether the appellant has complied with the conditions prescribed under paragraph 2(b) of Notification No. 102/2007-Cus and, if so, whether the rejection of the refund claims on the ground of discrepancies in invoice formats and alleged absence of endorsement regarding non-admissibility of SAD credit is legally sustainable.

7. We now proceed to examine the above issue in the light of the facts of the case, the submissions made by both sides and the provisions of Notification No.102/2007-Cus.

7.1 We find that the refund claims in the present appeals arise under Notification No.102/2007-Cus dated 14.09.2007 which grants refund of Special Additional Duty (SAD) of customs paid at the time of import, subject to fulfillment of certain conditions. One of the conditions prescribed under paragraph 2(b) of the Notification requires that the importer, at the time of sale of the imported goods, shall indicate in the sales invoices that no credit of the additional duty of customs levied under Section 3(5) of the Customs Tariff Act shall be admissible to the buyer. The purpose of this condition is to ensure that the incidence of SAD is not passed on in a manner enabling availment of credit by the buyer and thereby preventing double benefit.

7.2 We observe from the records that certain foundational facts are not in dispute. The payment of SAD at the time of import is admitted. It is also not disputed that the goods were subsequently sold in the domestic market on payment of VAT/Sales Tax. The appellant has also produced Chartered Accountant certificates certifying correlation between the imported consignments and subsequent sales and confirming that the incidence of duty has not been passed on. Thus, the essential elements of payment of SAD, subsequent sale of goods on payment of VAT stand established. The rejection of the refund claims by the lower authorities is confined primarily to alleged discrepancies in the endorsement

appearing in the invoices and differences between the invoice formats submitted by the appellant and those obtained from buyers.

7.3 We note that the learned counsel appearing for the appellant submitted that the sales invoices issued by the appellant contained the declaration required under paragraph 2(b) of the Notification, though the typographical presentation or layout of the invoices have varied in certain instances. It was contended that the invoices produced by buyers may differ in format or appearance because of variations in accounting software or printing systems and such differences cannot negate the presence of the statutory endorsement in the invoices issued by the appellant. The appellant further submitted that all relevant documents including Bills of Entry, duty payment challans, VAT returns and Chartered Accountant certificates were placed on record establishing correlation between imports and sales as well as non-passing of duty incidence.

7.4 On the other hand, the learned Authorised Representative reiterated the findings of the lower authorities and contended that the endorsement required under paragraph 2(b) of Notification No.102/2007-Cus is mandatory and must be strictly complied with. According to

the department, the invoices obtained from buyers did not contain identical endorsement and certain differences were noticed in formatting, placement of signature and other particulars, raising doubts regarding compliance with the condition prescribed under the Notification.

7.5 Upon careful consideration of the records and rival submissions, we find that the dispute essentially revolves around differences in the format or presentation of the invoices rather than the absence of the declaration itself. The Lower Appellate authority has referred to discrepancies between invoice copies retained by the appellant and those obtained from buyers, particularly in terms of layout, typographical arrangement or format. Such differences may arise from the use of different accounting or printing systems and cannot, by themselves, establish that the statutory declaration was omitted. Significantly, the lower authorities have not recorded any categorical finding that the buyers had actually availed credit of SAD or that the endorsement regarding non-admissibility of credit was completely absent in the invoices issued by the appellant.

7.6 We further observe that the requirement of endorsement under paragraph 2(b) of the Notification is intended only to ensure that the buyer does not avail credit

of the additional duty of customs, thereby preventing double benefit. In the present case, the records show that the appellant has paid VAT on the sale of the imported goods and has produced the certificate by a Chartered Accountant confirming that the duty incidence was not passed on. The department has also not disputed the correlation between imports and subsequent sales. In such circumstances, mere variations in invoice format or typographical presentation cannot be treated as proof of non-compliance with the substantive condition of the Notification.

7.7 We also note that the law relating to interpretation of exemption notifications distinguishes between substantive conditions and procedural requirements intended to regulate the manner of proof. In this context, the Hon'ble Supreme Court in *Mangalore Chemicals & Fertilizers Ltd. v. Deputy Commissioner*, 1991 (55) ELT 437 (SC) held that procedural lapses which do not go to the root of the matter should not result in denial of substantive benefits

7.8 We also note that the appellant has relied upon several judicial precedents dealing with refund under Notification No. 102/2007-Cus. In *P.P. Products Ltd. v. Commissioner of Customs, Chennai*, 2019 (367) E.L.T. 707 (Mad.), the Hon'ble Madras High Court held that refund of

SAD cannot be denied merely because the description of goods appearing in the sales invoices does not exactly match with the description in the Bills of Entry when the importer produces documents establishing correlation between imports and subsequent sales. Similarly, in *Johnson Lifts Pvt. Ltd. v. Assistant Commissioner of Customs (Refunds), Chennai, 2020 (374) E.L.T. 519 (Mad.)*, the Hon'ble High Court held that once payment of SAD, subsequent sale of goods on payment of VAT and correlation of goods are established, refund under Notification No.102/2007-Cus cannot be denied on hyper-technical grounds relating to discrepancies in description or invoice format.

7.9 Similar views have been expressed by this Tribunal in *Overseas Polymers Pvt. Ltd. v. Commissioner of Customs (Appeals), Chennai, 2021 (378) E.L.T. 231 (Tri.-Chennai)*, wherein it was held that refund under Notification No.102/2007-Cus cannot be denied merely on procedural discrepancies in invoices when the substantive requirements of payment of SAD and subsequent sale on payment of VAT are established. The same principle has been reiterated in *Aadya Overseas Ltd. v. Commissioner of Customs (Preventive), Noida, 2024 (390) E.L.T. 55 (Tri.-All.)*, wherein it was held that refund under Notification No.102/2007-Cus cannot be denied merely on procedural discrepancies in

invoices when the substantive requirements of payment of SAD and subsequent sale of goods on payment of VAT are established.

7.10 Applying the above principles to the facts of the present case, we find that the appellant has produced Bills of Entry evidencing payment of SAD, sales invoices showing subsequent sale of the goods on payment of VAT, VAT returns and Chartered Accountant certificates certifying correlation between imports and sales and non-passing of duty incidence. The Lower Appellate/adjudicating authority has not recorded any finding that the buyers have availed credit of SAD or that the duty incidence has been passed on. The discrepancies pointed out in the impugned orders relate only to minor variations in invoice format or typographical presentation. In our considered view, such procedural discrepancies cannot override the substantive compliance demonstrated by the appellant. We therefore hold that the appellant has substantially complied with the conditions prescribed under paragraph 2(b) of Notification No.102/2007-Cus and the rejection of the refund claims on the said ground is not legally sustainable. We therefore find that the rejection of the refund claims solely on the basis of differences in invoice format, without any finding regarding passing of duty incidence or availment of credit by buyers, is

contrary to the object and scheme of Notification No.102/2007-Cus.

8. In view of the foregoing discussion and findings, we hold that the appellant has substantially complied with the conditions prescribed under paragraph 2(b) of Notification No.102/2007-Cus dated 14.09.2007 and that the rejection of the refund claims on the ground of discrepancies in invoice format is not legally sustainable. Accordingly, the impugned Order-in-Appeal Nos. 292 & 293/2014 dated 21.02.2014 is set aside and the refund claims of Rs.2,51,046/- and Rs.2,63,572/- are allowed with consequential relief, if any, as per law.

(Order pronounced in open court on 10.04.2026)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

Sd/-
(P. DINESHA)
MEMBER (JUDICIAL)

MK