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

REGIONAL BENCH – COURT NO. 2

Customs Appeal No. 76015 of 2023

(Arising out of Order-in-Appeal No. KOL/CUS(PORT)/KS/702/2023 dated 18.09.2023 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. Sicuro Glasstein Private Limited : Appellant
2A, Kaviraj Row,
Kolkata – 700 073 (West Bengal)

VERSUS

Commissioner of Customs (Port) : Respondent
Custom House, 15/1, Strand Road,
Kolkata – 700 001 (West Bengal)

APPEARANCE:

Shri Rathindra Nath Bandyopadhyay, Advocate,
Ms. Rupsha Chatterjee, Advocate,
For the Appellant

Shri Rajarshi Chakraborty, Authorized Representative,
For the Respondent

CORAM:

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

FINAL ORDER NO. 76588 / 2026

DATE OF HEARING: 03.11.2026

DATE OF DECISION: 05.11.2026

ORDER: [PER SHRI K. ANPAZHAKAN]

The instant appeal has been preferred by M/s. Sicuro Glasstein Private Limited (hereinafter referred to as the "appellant") challenging Order-in-Appeal No. KOL/CUS(PORT)/KS/702/2023 dated 18.09.2023 passed by the Commissioner of Customs (Appeals), Kolkata whereby the ld. first appellate authority sustained the re-assessment of Bill of Entry No. 8778661 dated 21.05.2022 under Customs Tariff Item No. 7005 2990 as against Customs Tariff No. 7005

1090 originally claimed, and upheld the consequential denial of preferential tariff treatment under Notification No. 46/2011-Cus. dated 01.06.2011.

2. The factual matrix giving rise to the present dispute is that the appellant imported a consignment declared as "Clear Float Glass of various thickness & length" originating from Malaysia, supplied by M/s. Kibling Group (M) SDN BHD. For clearance of the subject goods, the appellant filed Bill of Entry No. 8778661 dated 21.05.2022, classifying the item under Customs Tariff Item No. 7005 1090 and claiming the benefit of 'Nil' rate of Basic Customs Duty (BCD) under Sl. No. 934 of Notification No. 46/2011-Cus. dated 01.06.2011, in terms of the ASEAN-India Free Trade Agreement (AIFTA). The Bill of Entry was self-assessed under the EDI system and accompanied by the requisite commercial invoices, packing lists, bill of lading, and a valid Certificate of Origin issued under AIFTA.

3. During the course of assessment, the Assessing Officer attached to the Faceless Assessment Group (FAG, INMAA 4) raised queries doubting the classification of the imported glass, specifically inquiring whether the product was tinted/non-tinted, wired/non-wired, or contained an absorbent or reflecting layer other than on the tin side. Although the appellant furnished an Analysis Report to substantiate its self-assessment under Heading 7005 10, the Assessing Authority reiterated its stance, proposing re-classification under Customs Tariff Item No. 7005 2990.

4. Thereafter, the appellant, vide letter dated 08.06.2022, submitted relevant documentation pointing out that the declarations strictly conformed

to the technical parameters certified by the overseas supplier and also sought provisional assessment on furnishing of PD Bond; further, to avoid prolonged detention of the cargo, the appellant agreed to the change in classification to Customs Tariff Item No. 7005 2990 under protest.

5. Consequently, the Proper Officer of Customs re-assessed the subject Bill of Entry under Customs Tariff Item No. 7005 2990, while denying the benefit of 'Nil' rate of BCD under Notification No. 46/2011-Cus. [Sl. No. 934].

5.1. Aggrieved by the re-assessment of the Bill of Entry and consequent denial of the preferential exemption under the AIFTA notification, the appellant preferred an appeal before the Ld. Commissioner of Customs (Appeals), Kolkata, who, vide the impugned order dated 18.09.2023, affirmed the re-classification of the goods under Customs Tariff Item No. 7005 2990 and upheld the disallowance of the exemption benefit.

5.2. Aggrieved thereby, the appellant has filed the present appeal.

6. During the course of hearing, the Ld. Counsel appearing on behalf of the appellant argued that from the details of the materials along with percentage criterion provided by the Overseas supplier, it transpires that the goods are non-wired and non-tinted and thus, the reassessment of the Bill of Entry is wholly unsustainable. It is submitted that the ld. first appellate authority has passed the impugned order without appreciating the Certificate of Analysis or the detailed submissions made by the appellant before the said authority. In support the following

case law, inter alia, have been relied upon by the appellant: -

i. *Chandrakala Associates [2022 (3810 E.L.T. 573 (A.A.R. – Cus. – Mum.)];*

ii. *Bagrecha Enterprises Ltd. v. Commissioner of Customs (Port), Kolkata [Final Order Nos. 77460-77462 of 2023 dated 03.11.2023 in Customs Appeal Nos. 75536, 75537 & 75538 of 2023 – CESTAT, Kolkata];*

iii. *Rider Glass Industries Pvt. Ltd. v. Commissioner of Customs, Chennai [(2024) 25 Centax 384 (Tri. – Mad.)]*

6.1. In view of the above, it is the contention of the Ld. Counsel for the appellant that the issue is no longer res integra and the goods in question viz. Clear Float Glass, are appropriately classifiable under Customs Tariff Item No. 7005 1090 instead of Customs Tariff Item No. 7005 2990 and hence, the impugned order has no legs to stand on.

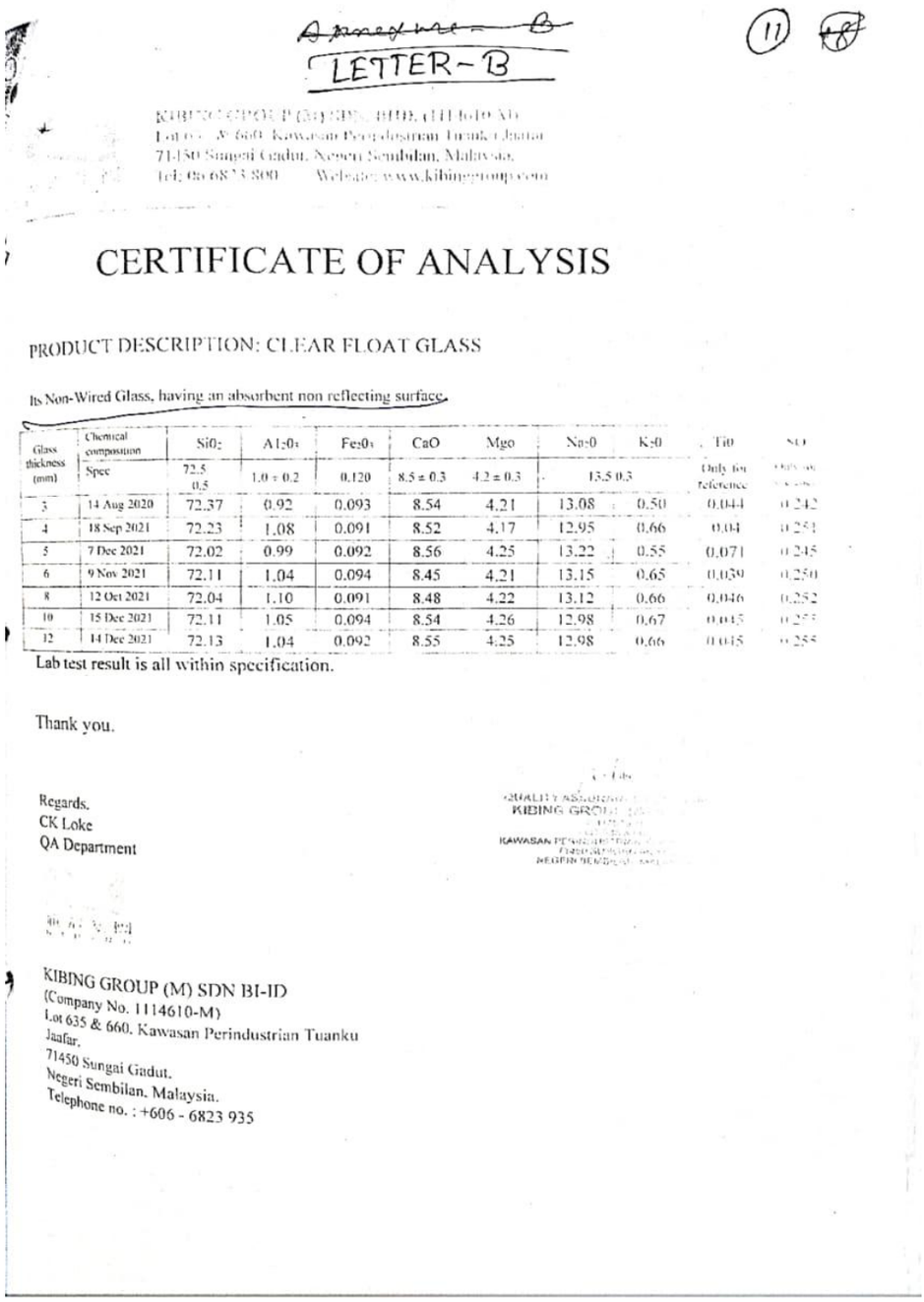
7. On the other hand, the Ld. Authorized Representative of the Revenue justified the impugned order.

8. Heard both sides and perused the records of the case.

9. The crux of the dispute lies in the classification of the imported goods declared as "Clear Float Glass of various thickness & length". While the appellant has claimed classification under Customs Tariff Item No. 7005 1090 along with preferential tariff benefits under Notification No. 46/2011-Cus. dated 01.06.2011, the Revenue contends that the goods are appropriately classifiable under Customs Tariff Item No. 7005 2990, as affirmed in the impugned order. Therefore, the short question that arises for our determination is

whether the material available on record is sufficient to justify the re-classification adopted by the Revenue.

10. At the outset, a perusal of the Certificate of Analysis furnished by the overseas supplier, M/s. Kibling Group (M) SDN BHD, Malaysia, clearly records that the product in question is non-wired glass possessing an absorbent non-reflecting layer. The same is reproduced below for better appreciation of the facts:-



~~Annexure – B~~
LETTER-B

(11)

KIBING GROUP (M) SDN. BHD. (1114610-M)
Lot 635 & 660, Kawasan Perindustrian Tuanku Ja'afar
71450 Sungai Gadut, Negeri Sembilan, Malaysia.
Tel: 06-682 3800 Website: www.kibinggroup.com

CERTIFICATE OF ANALYSIS

PRODUCT DESCRIPTION: CLEAR FLOAT GLASS

Its Non-Wired Glass, having an absorbent non reflecting surface.

Glass thickness (mm)	Chemical composition	SiO_2	Al_2O_3	Fe_2O_3	CaO	Mgo	Na_2O	K_2O	TiO	SO
	Spec	72.5 0.5	1.0 ± 0.2	0.120	8.5 ± 0.3	4.2 ± 0.3	13.5 0.3		Only for reference	
3	14 Aug 2020	72.37	0.92	0.093	8.54	4.21	13.08	0.50	0.044	0.242
4	18 Sep 2021	72.23	1.08	0.091	8.52	4.17	12.95	0.66	0.04	0.251
5	7 Dec 2021	72.02	0.99	0.092	8.56	4.25	13.22	0.55	0.071	0.245
6	9 Nov 2021	72.11	1.04	0.094	8.45	4.21	13.15	0.65	0.039	0.250
8	12 Oct 2021	72.04	1.10	0.091	8.48	4.22	13.12	0.66	0.046	0.252
10	15 Dec 2021	72.11	1.05	0.094	8.54	4.26	12.98	0.67	0.045	0.255
12	14 Dec 2021	72.13	1.04	0.092	8.55	4.25	12.98	0.66	0.045	0.255

Lab test result is all within specification.

Thank you.

Regards,
CK Loke
QA Department

QUALITY ASSURANCE
KIBING GROUP
KAWASAN PERINDUSTRIAN
NEGERI SEMBILAN

KIBING GROUP (M) SDN BHD
(Company No. 1114610-M)
Lot 635 & 660, Kawasan Perindustrian Tuanku
Jaafar,
71450 Sungai Gadut,
Negeri Sembilan, Malaysia.
Telephone no. : +606 - 6823 935

10.1. Further, the technical literature and product specifications of the goods pertaining to the supplier, as placed on record, establish that the imported glass bears a tin coating, confirming the presence of the bottom/tin surface layer. No cogent evidence to the contrary has been brought on record by the Revenue. In this context, we note that although the impugned order records that remnant samples were drawn by the Shed Officer and forwarded to CSIR, Kolkata for chemical testing, the record is completely silent as to the outcome of such testing, nor has any test report been produced by the Revenue before us to disprove the manufacturer's analytical specifications.

11. In the absence of any contrary evidence, the factual parameters provided by the manufacturer remain unrefuted. Consequently, we hold the imported goods merit classification under Customs Tariff Item 7005 1090 as self-assessed by the importer.

12. Even considering the Revenue’s reliance on Circular No. 23/2024-Customs dated November 14, 2024 to contend that the tin coating cannot be considered towards classification under Heading 7005 10, we find that the subject import pertains to Bill of Entry No. 8778661 dated 21.05.2022, which is prior to the issuance of the said Circular. Thus, the said circular in any case cannot be applied retrospectively in respect of the import in question.

13. Moreover, we also take note of the fact that, during the said period, it has been consistently held in a catena of decisions that the microscopic layer of tin absorbed during the molten tin bath float process physically functions as an absorbent layer, thereby bringing float glass of this description under Customs

Tariff Item No. 7005 1090. In the case of *Bagrecha Enterprises Ltd. v. Commissioner of Customs (Port), Kolkata [Final Order Nos. 77460-77462 of 2023 dated 03.11.2023 in Customs Appeal Nos. 75536, 75537 & 75538 of 2023 – CESTAT, Kolkata],* while dealing with imports from the very same supplier viz. M/s. Kibing Group (M) SDN BHD, Malaysia, the Bench opined that the goods are appropriately classifiable under Customs Tariff Item No. 7005 1090. The relevant portion of the said order is reproduced below: -

> *"16. We find that there is no dispute that the impugned goods is non-wired glass. By conjoint reading of the above note 2(c) and the manufacturing process, it can be inferred that CFG would have microscopical layer of metal, namely tin, which is an absorbent layer as contemplated under the above said Chapter Note 2(c). Hence, the correct classification of the impugned goods is under CTH 7005 1090 of Customs Tariff Act.*
>
> *17. We further find that the manufacturers in India of the identical goods namely M/s. Saint-Gobain India Pvt.Ltd., M/s. Goldplus Float Glass are manufacturing and clearing CFG under CTH 70051090 of the CTA and the same has been accepted by the department.*
>
> *18. We further find that the impugned proceedings were initiated against the appellant on the basis of Audit Para holding that the Float Glass invariably a layer of Tin on one side, which does not mean that all Float Glass to be classifiable under 7009 1090.*
>
> *19. We find that the appellant sought reply under RTI dated 17.07.2023, wherein the question was raised that it is observed that in some of the Report, no other layer other than Tin layer is found on one side of the Glass which is fluorescent is mentioned. Whether such layers are reflective or not-reflective and whether such layers are absorbent or not? The reply is given as (a) not-reflective and (b) absorbent (UV).*
>
> *20. If the same is considered then the said clarification is satisfying the Chapter Note 2(c) of Chapter 70 of the Customs Tariff Act and the said*

Report has not been relied upon by the adjudicating authority while adjudicating the case. Therefore, the impugned order is bad in law.

21. We further take note of the fact that in the case of M/s. Suraj Constructions (supra), the Advance Ruling Authority has examined the issue and observed as under: -

> *"7. I have considered all the materials placed before me for the subject goods. I have gone through the submissions made by the applicant during personal hearing and the comments of the jurisdictional Principal Commissioner/Commissioner of Customs, on the impugned subject matter. The subject goods for which advance ruling has been sought, their characteristics, manufacturing process, utility etc. are already mentioned in the aforementioned paras. The subject goods are clear float glass, with an absorbent layer, which is fluorescent under UV illumination. The subject goods are not wired, tinted or green in colour. The heading 7005 10 covers non-wired glasses having an absorbent, reflecting or non-reflecting layer and the headings 7005 21 to 7005 29 deal with non-wired glasses which are tinted having absorbent layer, opacified, flashed etc. Therefore, the subject goods are appropriately covered under sub-heading 7005 1090. Based on the applicant's submission about the country of origin and the manufacturer of the subject goods, benefits under sr.no.934 of the table annexed to the exemption notification no.46/2011-Cus., dated 01.06.2011, would be available, subject to the condition that in respect of each case of import, the applicant would have to produce evidence before the Deputy/Assistant Commissioner of Customs as to the origin of subject goods.*
>
> *8. On the issue of whether the benefit of the said exemption would be available even if the sub-heading mentioned in the COO differs for 70051090, the applicant & their authorized representative were asked to explain the context of the said question. It appears that the subject goods are being exported from Malaysia under its code 70052990. The*

> *applicant has submitted a copy of the letter ref. no. MITI.700-2/26 Jld.6(38) dated 30.04.2021 from the Director of Trade and Industry Cooperation, Ministry of International Trade and Industry (MITI, hereinafter), stating that they had been requesting the clear float glass exporters to provide an advance ruling/document of the Government of India or from Royal Malaysian Customs confirming the correct HS code. It appears that M/s. Kibing Group (M) Sdn. Bhd. has obtained a letter from the Royal Malaysian Customs dated 12.03.2021 confirming the classification of clear float glass under HS code 7005.10.09, and therefore, MITI has allowed KGM to apply for a COO with exporting and importing HS code of 70051090. This letter goes on to state that unless M/s. Xinyi produces a similar document, their application with different exporting and importing tariff code cannot be approved."*
>
> *22. Further, in the case of M/s. Chandrakala Associates (supra), again the Advance Ruling Authority has examined the issue and observed as under:-*
>
> *…*
>
> *24. As from the facts of the case, it is clear that the Clear Float Glass imported by the appellant are absorbent and having non-reflecting layer, in that circumstances, the appellant has qualified the merit classification under CTH 7005 1090, therefore, we hold the correct classification of the Clear Float Glass imported by the appellant under the impugned Bills of Entry is classifiable under CTH 7005 1090. Consequently, the appellant is entitled for benefit of Serial No.934 (1) of Notification No.046/2011-CUS dated 01.06.2011."*

13.1. A similar view has also been expressed in the case of *Rider Glass Industries Pvt. Ltd. v. Commissioner of Customs, Chennai [(2024) 5 Centax 384 (Tri. – Mad.)]* wherein the issue was decided in favour of the importer.

14. Therefore, we find that the issue is no longer res integra. In view of the above discussions and by respectfully following the judicial precedents cited supra, we hold that the goods imported by the appellant under Bill of Entry No. 8778661 dated 21.05.2022 are rightly classifiable under Customs Tariff Item No. 7005 1090, as claimed by the appellant, and are eligible for the consequential preferential 'nil' rate of Basic Customs Duty (BCD) in terms of Notification No. 46/2011-Cus. dated 01.06.2011, as claimed.

15. The re-assessment of the subject Bill of Entry under Customs Tariff Item No. 7005 2990 is accordingly not sustainable and therefore, the same is set aside. Accordingly, the impugned order stands set aside.

16. The appeal is allowed with consequential relief, if any, as per law.

(Order pronounced in the open court on **05.11.2026**)

Sd/-

(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd