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

REGIONAL BENCH – COURT NO. 2

Customs Appeal No. 77448 of 2019

(Arising out of Order-in-Original No. 34/SA(34) ADG (ADJ.)/DRI, Mumbai/2019-20 dated 19.09.2019 passed by the Commissioner of Revenue Intelligence Mumbai, 2nd Floor, Old Building, New Custom House, Ballard Estate, Mumbai-400 001)

M/s. Usha Martin Limited, **: Appellant**
2A, Shakespeare Sarani, Kolkata-700071

VERSUS

The Commissioner of Customs(Port), Kolkata **: Respondent**
15/1, Strand Road, Customs House,
2nd Floor, Kolkata-700001

APPEARANCE:

Shri Rahul Dhanuka, Advocate
Shri Ashutosh Sharma, Advocate for the Appellant

Shri R. Chakraborty, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO.76600/2026

DATE OF HEARING / DECISION: 12.11.2026

Order: [PER SHRI K. ANPAZHAKAN]

Briefly stated facts of the case are that M/s. Usha Martin Limited (hereinafter referred to as "the Appellant") are, inter alia, engaged in the manufacture of iron and steel products, including steel wire ropes, steel wire strands, steel wires, etc., and operates manufacturing facilities at Ranchi and Hoshiarpur. The Appellant has its registered office at 2A, Shakespeare Sarani, Kolkata – 700071 and holds a valid IEC bearing No. 2188000633.

2. The present proceedings concern the import of Magnesia Carbon Bricks (hereinafter referred to as

"MCB") by the Appellant during the relevant period from various overseas suppliers, including M/s. Refratechnik Steel, M/s. Magnesia Refractories (Dalian Co.), M/s. Tianjin New Century Refractories and M/s. Yingkou Heping Samwha Minerals. The Appellant classified the imported MCB under Customs Tariff Headings (CTH) 6902/6903 of the First Schedule to the Customs Tariff Act, 1975(hereinafter referred to as **"the CTA"**), based on the Country of Origin Certificates issued by the overseas suppliers and accordingly availed the concessional BCD rate of 5% under Sl. No. 304 of Notification No. 12/2012-Cus., dated 17.03.2012.

2.1. The officers of DRI, Chennai initiated an investigation into the classification of the goods, alleging that the imported MCB were classifiable under the CTH 6815, attracting BCD at 10%, and demanded differential duty along with interest on such imports made during the period from 01.11.2014 to 31.10.2015. The Appellant claimed that in order to buy peace of mind and without prejudice to its rights and contentions, they have paid differential customs duty of INR 1,83,37,396/- and interest of INR 19,05,356/- on MCB imported during 01.11.2014 to 31.10.2015 and sought closure of proceedings under Section 28(2) of the Customs Act, 1962 vide letters dated 21.11.2015 and 28.12.2015. The Investigating Authority, vide letter dated 20.07.2016, accepted the Appellant's request and confirmed closure of proceedings. However, the proceedings were subsequently revived by the Investigating Authority, relying upon the amendment to Section 28 introduced by the Finance Act, 2016, extending the normal limitation period from one year to two years, and vide letter dated 26.07.2016, a demand of differential duty of INR 83,33,710/- along with interest on MCB imported during 14.05.2014 to

30.10.2014 was made. The Appellant, vide letter dated 12.09.2016, replied to the Investigating Authority's letter dated 26.07.2016, contending that the imports made during May–August 2014 were time-barred even under the amended two-year limitation and that the amendment could not revive the Department's right to issue a Show Cause Notice for imports made during September–October 2014, which had already become time-barred prior to 14.05.2016.

2.2. Disregarding the Appellant's submissions regarding the period September–October 2014, the Appellant was served with a Show Cause Notice bearing F.No. DRI/CZU/VIII/26/150(D)/2015-DRI dated 17-09-2016, by the Additional Director, DRI, Chennai , alleging misclassification of MCB under CTH 6902/6903 instead of Customs Tariff Item 68159100 and wrongful availment of concessional BCD, and proposing denial of the exemption benefit, reclassification of the imported MCB, recovery of differential duty along with applicable interest, confiscation of the goods under Section 111(m) and imposition of penalty under Section 112(a) of the Customs Act.

2.3. The Appellant filed its reply to the SCN on 08.11.2016, refuting all allegations, and subsequently submitted copies thereof before the Common Adjudicating Authority. However, the Ld. Adjudicating Authority, vide Order-in-Original No. 34/SA(34) ADG (ADJ.)/DRI, MUMBAI/2019-20 dated 19.09.2019 (hereinafter referred to as the **"impugned Order"**), confirmed the demand of differential duty amounting to INR 21,55,096/- along with applicable interest and imposed a penalty of INR 80,000/- under Section 112(a) of the Customs Act on the Appellant.

2.4. Aggrieved by the order passed by the Ld. Adjudicating Authority, the Appellant has preferred the instant Appeal.

3. The submissions made by the Appellant are summarized as under:

3.1. The MCB imported by the Appellant are correctly classifiable under CTH 6902 and CTH 6903

The Appellant submits that MCB can either be classified under CTH 6902 or 6903 depending upon the content of magnesium, calcium, chromium, graphite or other carbon substances. However, the impugned order has held that the MCB imported by the Appellant were not classifiable under CTH 6902 and/or 6903 and were instead classifiable under CTH 6815 on the alleged ground that as per Chapter Note 1 of Chapter 69 read with the HSN Explanatory Notes, for a product to fall under Chapter 69, the same must necessarily be fired after shaping to a minimum of 800°C, which condition has not been fulfilled in the facts of the present case since the MCB imported by the Appellant are fired only up to 350°C after shaping. It is submitted that Chapter Note 1 to Chapter 69, as it stood during the relevant period, provided that the Chapter applies only to ceramic products that have been fired after shaping, and that CTHs 6904 to 6914 apply only to such products other than those classifiable under CTHs 6901 to 6903. Thus, the requirement of firing itself was not applicable to goods classifiable under CTH 6902/6903. In this regard, the Appellant submits that Chapter Note 1, as it stood during the relevant period, did not prescribe any minimum temperature for firing, and the stipulation regarding 800°C appears only in the HSN Explanatory Notes, which cannot override the Chapter Notes to the CTA where the two are at variance. The MCB are, therefore,

appropriately covered under CTH 6902/6903 and the Appellant has rightly classified the same. Further by application of Rule 3(a) of the General Rules of Interpretation, it is evident that the MCB are more specifically covered under CTH 6902 as refractory bricks and shapes, as against CTH 6815, which provides a general description covering articles of stone or other mineral substances not specified or included elsewhere.

3.2. Reliance in this regard is placed on the decision of the Hon'ble CESTAT in ***M/s JSW Steel Limited v. Additional Director General, DRI (Adjudication), Mumbai, 2026 (8) TMI 1617 - CESTAT MUMBAI***, wherein Magnesia Carbon Bricks fired at 250°C to 350°C were held to be rightly classified under CTH 6902, on identical facts. The Hon'ble Tribunal held that the requirement of firing at 800°C was introduced into Chapter Note 1 only with effect from 01.01.2022 and could not be applied to imports made prior to that date, and that, in any event, the said requirement applied only to products under CTHs 6904 to 6914 and not to refractory products under CTHs 6901 to 6903. Further, it was also held that that CTI 6902 10 40 specifically covering Magnesia Carbon Bricks must prevail over the residuary CTI 6815 91 00.

3.3. There is no Estoppel in matters of classification

The impugned order has held that the Appellant's voluntary payment of differential duty of INR 1,83,37,396/- and interest of INR 19,05,369/- for the period 01.11.2014 to 31.10.2015, without protest, estops the Appellant from disputing classification under CTH 6815 for the relevant period. The Appellant submits that classification is a question of law, and an earlier classification adopted by an importer, whether due to inadvertence,

product-specific circumstances or otherwise, neither creates an estoppel nor determines the correct classification of the goods covered by the present proceedings. Each imported product must be classified on the basis of its objective characteristics, composition and function, in accordance with the applicable tariff provisions. It is a settled position that there can be no estoppel in matters of taxation. Reliance in this regard is placed on the decision of the Hon'ble Supreme Court in ***Dunlop India (supra)***. Further reliance in the above regard is also placed on the decision of the Hon'ble Apex Court in ***BSNL v. Union of India, 2006 (2) STR 161 (SC),*** wherein it was held that principle of Res judicata does not apply in tax matters as cause of action for each assessment year is different

3.4. In view of the above, the finding in the impugned order that the Appellant is estopped from disputing classification under CTH 6815, on account of its having made voluntary payment for an earlier period, is legally unsustainable and liable to be set aside.

4. In the absence of any allegation of mens rea, the Department's right to issue a Show Cause Notice for the relevant period had already become time-barred in October 2015 and could not be revived by the subsequent amendment to Section 28 of the Customs Act, 1962, introduced vide the Finance Act, 2016.

4.1. The Appellant submits that in the instant case the right to issue Show Cause Notice under the unamended Section 28 of the Customs Act expired on 30.10.2015. The SCN dated 27.09.2016 was issued after this right had become time-barred, relying on the amendment to Section 28(1) of the Customs Act (enhancing the limitation period from one year to two years) vide the Finance Act, 2016,

effective from 14.05.2016. It is settled law that where the right to issue notice under an earlier statute of limitation has expired before an amending provision comes into force, such right cannot be revived by the amended provision. Reliance in this regard is placed on the following decisions:

- ***Union of India v. Uttam Steel Limited, 2015 (319) ELT 598 (SC)***
- ***Thirumalai Chemicals Limited v. Union of India, 2011 (268) ELT 296 (SC)***

4.2. In the context of amendment to the recovery provisions under central excise, services tax and customs vide Finance Act, 2016 itself, various Tribunals have taken the same view, including the following:

- ***M/s Aveco Technologies Pvt. Ltd. Vs. CC, Hyderabad, reported at 2018 (362) E.L.T. 624 (Tri. - Hyd.), affirmed by the Apex Court in 2018 (362) E.L.T. A164 (SC)***
- ***M/s. CRI Limited Vs. CC, Airport & Administration, Kolkata, reported at 2020 (12) TMI 805 - CESTAT Kolkata***
- ***Neel Agrotech Pvt Ltd Vs. Commissioner of CGST & CE – Ahmedabad South, reported at 2026 (9) TMI 1667 - CESTAT Ahmedabad***
- ***M/s. Sakthi Sugars Ltd. Vs. Commissioner of GST & CX, vide Final Order No. 40026/2026***
- ***Right Resource Management Service Vs. Commissioner of CGST, CX. and Customs, Dehradun, reported at (2024) 15 Centax 362 (Tri.-Del)***
- ***Coastal Housing Vs. CCE & CT, Mangalore, reported at 2021 (8) TMI 83 - CESTAT Bangalore.***

4.3. It is submitted that the impugned order has distinguished the above decisions on flimsy grounds or rather not dealt with the above judgments. Instead, it relies on the decision of the Hon'ble Supreme Court in ***Mysore Rolling Mills Private Limited v. Collector of Central Excise, Belgaum, 1987 (28) ELT 50 (SC)*****.** The Appellant submits that the judgment in the case of Mysore Rolling Mills Private Limited (supra) is not applicable to the facts of the present case because of the following reasons: The provision considered in Mysore Rolling's case, namely the proviso to Rule 10 of the Central Excise Rules, 1944, is materially different from Section 28 of the Customs Act. It is submitted that this very distinction is recognised by the Hon'ble Tribunal itself in the earlier round of proceedings [*Refer Mysore Rolling Mills v. CCE 1985 (21) E.L.T. 875 (Tribunal)****]*** wherein it was held that the retrospective extension under Rule 10 was a new cause of action which was not present in the earlier law.

5. **The entire demand rests on assumptions and presumptions, with the documents relied upon to allege misclassification being unreliable**

5.1. The Appellant paid the differential duty for the period 1 November 2014 to 31 October 2015 only to buy peace of mind, without admitting wilful misclassification, and on the investigating authority's assurance that the proceedings would stand concluded thereon. The impugned order nonetheless relies on statements of officials unconnected with the Appellant's actual suppliers during the relevant period, supplier catalogues, and test reports pertaining to a third party, M/s JSW Steels Ltd. Barring the statement of the Country Head of M/s Refratechnik Steel GmbH, none of these are

relevant, and even that statement does not establish that the MCB supplied were unfired bricks under CTH 6815, since the patent document referred to therein itself recognises both fired and unfired categories. In the absence of any test conducted on MCB actually imported by the Appellant, the allegation of misclassification under CTH 6902/6903 is entirely **s**peculative. It is submitted that the test reports relating to JSW Steels Ltd.'s imports cannot be extended to the Appellant's consignments. It is settled law that test results are confined to the specific consignment sampled and cannot be applied to other consignments, even of the same or similar goods. This position was affirmed ***in Shalimar Paints Ltd. vs. CCE, Kolkata [2001 (134) ELT 285 (Tri. - Kol.)]***, affirmed by the Hon'ble Supreme Court in ***2002 (145) ELT A242***.None of the Appellant's officials admitted to misclassification for the relevant period. The only adverse observation related to RHI Group imports, on which duty had already been paid and which were, in any event, not imported during the relevant period. Further, the officials relied upon were unconnected with production and unqualified to opine on classification. In the absence of any corroborative evidence specific to the relevant period, the allegation of misclassification is unsustainable, particularly as the onus to establish misclassification lies on the Revenue The adjudicating authority's reliance on irrelevant suppliers' statements, merely because they were shown to and acknowledged by the Appellant's personnel, does not discharge the revenue's burden, nor cure their inadmissibility under Section 138B of the Customs Act, as held in the following cases:

- ***Ambika International v. Union of India [2018 (361) E.L.T. 90 (P&H.)],***

- ***G-Tech Industries v. Union of India [2016 (339) E.L.T. 209 (P&H.)],***
- ***M/s. Amco Sales & Anr. v. CCE, Delhi-I [2018-TIOL-819-CESTAT-DEL].***

6. **Penalty under Section 112(a) of the Customs Act is not imposable –**

Penalty under Section 112(a) of the Customs Act can be imposed only where goods are liable to confiscation under Section 111, or where duty is otherwise payable, and only where the importer has acted in deliberate defiance of law. In the present case, neither condition is satisfied here, as the MCB imported by the Appellant is not liable to confiscation, no duty is payable, and the Appellant was, at all times, under a *bona fide* belief that the imported MCB was classifiable under CTH 6902/6903, a belief substantiated by the Country-of-Origin certificate issued by the supplier. Reliance in this regard is placed on ***Hindustan Steel Limited vs. State of Orissa [AIR 1970 SC 253],*** wherein the Hon'ble Supreme Court held that penalty will ordinarily be imposed only where a party acts in deliberate defiance of law, and not where the breach is technical or venial, or flows from a bona fide belief that the offender is not liable under the Act.

7. In view of the above submissions, the Appellant prayed for setting aside the impugned order and allow their appeal with consequential relief, if any, as per law.

8. The Ld. A.R. reiterated the findings in the impugned order. The Ld. A.R. submits that the Appellant themselves agreed to the classification of the impugned goods under the CTH 6815 and paid the customs duty. Thus, the Appellant cannot

contest the classification admitted by them. Accordingly, he supported the impugned order.

9. Heard both sides and perused the appeal documents.

10. We find that the Appellant classified the imported MCB under the Customs Tariff Headings 6902/6903 of the First Schedule to the CTA**.** Based on the Country of Origin Certificates issued by the overseas suppliers, the Appellant availed the concessional BCD rate of 5% under Sl. No. 304 of Notification No. 12/2012-Cus., dated 17.03.2012. The Department alleged that the imported MCB were classifiable under the CTH 6815, attracting BCD at 10%, and accordingly, demanded differential duty along with interest on such imports made during the period from 01.11.2014 to 31.10.2015. The proceedings initiated against the Appellant by way of issue of SCN vide F.No. DRI/CZU/VIII/26/150(D)/2015-DRI dated 17-09-2016 has culminated in the impugned order confirming the demands of customs duty along with interest and penalty.

10.1. Thus, we find that the issue to be decided in the appeal are:

(i) Whether Magnesia Carbon Bricks are classifiable under Chapter Heading 69 or Chapter Heading 68 of the First Schedule to the Customs Tariff Act, 1975

(ii) Whether the Appellant is estopped from disputing classification under CTH 6815, on account of its having made voluntary payment for an earlier period under the CTH 6815.

(iii) Whether the amended provisions of Section 28(1) of the Customs Act, 1962, extending the normal period of limitation from one year to two years, can be applied to imports in respect of which the statutory period for issuance of a Show Cause Notice had already expired prior to the amendment

coming into force.

11. (i) Whether Magnesia Carbon Bricks are classifiable under Chapter Heading 69 or Chapter Heading 68 of the First Schedule to the Customs Tariff Act, 1975

11.1. We find that the dispute in the present case is whether the goods MCB imported by the Appellant are classifiable under the Customs Tariff Headings 6902/6903 as claimed by the Appellant or under the CTH 6815 as claimed by the Revenue. For ready reference, the relevant extracts of Chapter Heading 6902 of CTA, are reproduced below:

Tariff Item	***Description***	***Unit***	***Rate of Duty***
1	***2***	***3***	***4***
6902	***REFRACTORY BRICKS , BLOCKS , TILES AND SIMILAR REFRACTORY CERAMIC CONSTRUCTIONAL GOODS, OTHER THAN THOSE OF SILICEOUS FOSSIL MEALS OR SIMILAR SILICEOUS EARTHS***		
690210	***Containing by weight, singly or together, more than 50% of the elements Mg, Ca or Cr, expressed as MgO, CaO or Cr_2O_3 :***		
69021040	*Magnesia carbon bricks and shapes*	*mt*	*10%*

Relevant extracts of Chapter Heading 6903 of CTA, set out here-in-below:

Tariff Item	***Description***	***Unit***	***Rate of Duty***
1	***2***	***3***	***4***
6903	***Other refractory ceramic goods (for example, retorts, crucibles, muffles, nozzles, plugs, supports, cupels, tubes, pipes, sheaths and rods), other than those of siliceous fossil meals or of similar siliceous earths***		
6903 10	*Containing by weight more than 50% of graphite or other carbon or of a mixture of these products:*		
69031010	*--- Magnesia Carbon Bricks, Shapes and graphetised alumina*	*mt*	*10%*

11.2. From the above table extracted, we find that MCB can either be classified under CTH 6902 or 6903 depending upon the content of magnesium, calcium, chromium, graphite or other carbon substances. However, the impugned order has held that the MCB imported by the Appellant were not classifiable under CTH 6902 and/or 6903 and were instead classifiable under CTH 6815 on the ground that as per Chapter Note 1 of Chapter 69 read with the HSN Explanatory Notes, for a product to fall under Chapter 69 the same must necessarily be fired after shaping to a minimum of 800°C, which condition has not been fulfilled in the facts of the present case since the MCB imported by the Appellant are fired only up to 350°C after shaping.

11.3. We observe that Chapter Note 1 to Chapter 69, as it stood during the relevant period, provided that the Chapter applies only to ceramic products that

have been fired after shaping, and that CTHs 6904 to 6914 apply only to such products other than those classifiable under CTHs 6901 to 6903. Thus, the requirement of firing itself was not applicable to goods classifiable under CTH 6902/6903. We also find that Chapter Note 1, as it stood during the relevant period, did not prescribe any minimum temperature for firing, and the stipulation regarding 800°C appears only in the HSN Explanatory Notes, which cannot override the Chapter Notes to the CTA where the two are at variance. Thus, we find that the MCB are appropriately covered under CTH 6902/6903 and the Appellant has rightly classified the same. Further by application of Rule 3(a) of the General Rules of Interpretation, it is evident that the MCB are more specifically covered under CTH 6902 as refractory bricks and shapes, as against CTH 6815, which provides a general description covering articles of stone or other mineral substances not specified or included elsewhere.

11.4. In this regard, we find that the issue is no longer *res integra* as the said issue has already been decided by CESTAT, Mumbai in the case of ***M/s JSW Steel Limited v. Additional Director General, DRI (Adjudication), Mumbai, 2026 (8) TMI 1617 - CESTAT MUMBAI***, wherein, on identical set of facts, it has been held that the Magnesia Carbon Bricks fired at 250°C to 350°C were rightly classifiable under the CTH 6902. The Tribunal has held that the requirement of firing at 800°C was introduced into Chapter Note 1 only with effect from 01.01.2022 and could not be applied to imports made prior to that date, and that, in any event, the said requirement applied only to products under CTHs 6904 to 6914 and not to refractory products under CTHs 6901 to 6903. Further, it was also held that that CTI 6902 10 40 specifically covering

Magnesia Carbon Bricks must prevail over the residuary CTI 6815 91 00. We find that the ratio of this decision is squarely applicable to the facts and circumstances of the present case. Accordingly, by following the ratio of the decision cited supra, we hold that the MCB imported by the Appellant are appropriately classifiable under the CTH 6902 or 6903 and the Appellant are eligible for the concessional BCD rate of 5% under Sl. No. 304 of Notification No. 12/2012-Cus., dated 17.03.2012. Thus, we hold that the demand of customs duty along with interest confirmed in the impugned order is legally not sustainable and hence we set aside the same. As the ingredients for imposing penalty under Section 112(a) of the Customs Act are not available in this case, no penalty imposable on the Appellant and hence we set aside the penalty imposed in the impugned order.

12. (ii) Whether the Appellant is estopped from disputing classification under CTH 6815, on account of its having made voluntary payment for an earlier period under the CTH 6815.

12.1. The impugned order has held that the Appellant's voluntary payment of differential duty of INR 1,83,37,396/- and interest of INR 19,05,369/- for the period 01.11.2014 to 31.10.2015, without protest, estops the Appellant from disputing classification under CTH 6815 for the relevant period. In this regard, we observe that classification is a question of law, and an earlier classification adopted by an importer, whether due to inadvertence, product-specific circumstances or otherwise, neither creates an estoppel nor determines the correct classification of the goods covered by the present proceedings. Each imported product must be

classified on the basis of its objective characteristics, composition and function, in accordance with the applicable tariff provisions. It is a settled position that there can be no estoppel in matters of taxation. Reliance in this regard is placed on the decision of the Hon'ble Supreme Court in ***Dunlop India (supra)***. Further reliance in this regard is also placed on the decision of the Hon'ble Apex Court in ***BSNL v. Union of India, 2006 (2) STR 161 (SC),*** wherein it has been held that the principle of Res judicata does not apply in tax matters as cause of action for each assessment year is different.

12.2. In view of the above, we are of the view that the finding in the impugned order that the Appellant is estopped from disputing classification under CTH 6815, on account of its having made voluntary payment for an earlier period, is legally not sustainable.

13. (iii) Whether the amended provisions of Section 28(1) of the Customs Act, 1962, extending the normal period of limitation from one year to two years, can be applied to imports in respect of which the statutory period for issuance of a Show Cause Notice had already expired prior to the amendment coming into force.

13.1. In the instant case, we find that the right to issue Show Cause Notice under the unamended Section 28 of the Customs Act expired on 30.10.2015. The SCN dated 27.09.2016 was issued after this right had become time-barred, relying on the amendment to Section 28(1) of the Customs Act vide the Finance Act, 2016, effective from 14.05.2016. It is settled law that where the right to issue notice under an earlier statute of limitation has expired before an amending provision comes into force, such right cannot be revived by the amended

provision. In support of this view, we rely on the following decisions:

- ***Union of India v. Uttam Steel Limited, 2015 (319) ELT 598 (SC)***
- ***Thirumalai Chemicals Limited v. Union of India, 2011 (268) ELT 296 (SC)***

13.2. It is observed that the impugned order has distinguished the above decisions and relied on the decision of the Hon'ble Supreme Court in ***Mysore Rolling Mills Private Limited v. Collector of Central Excise, Belgaum, 1987 (28) ELT 50 (SC)*.** We find that the judgment in the case of Mysore Rolling Mills Private Limited (supra) is not applicable to the facts of the present case. We observe that the provision considered in Mysore Rolling's case, namely the proviso to Rule 10 of the Central Excise Rules, 1944, is materially different from Section 28 of the Customs Act. We find that this very distinction is recognised by the Tribunal itself in the earlier round of proceedings [*Refer Mysore Rolling Mills v. CCE 1985 (21) E.L.T. 875 (Tribunal)**]*** wherein it was held that the retrospective extension under Rule 10 was a new cause of action which was not present in the earlier law.

14. Summarizing the above findings, we hold that the Magnesia Carbon Bricks imported by the Appellant are classifiable under the Chapter Heading 6902/6903 of the First Schedule to the Customs Tariff Act, 1975, as claimed by the Appellant and reject the classification 6815 as determined in the impugned order. We also hold that there is no estoppel in disputing classification under CTH 6815, by the Appellant. Regarding invocation of the amended provisions of Section 28(1) of the Customs Act, 1962, we hold that the said provision is not

applicable to the facts and circumstances of the present case, as the statutory period for issuance of a Show Cause Notice had already expired prior to the amendment coming into force.

15. In view of the above findings, we set aside the impugned order and allow the appeal filed by the Appellant with consequential relief, if any, as per law.

(Operative part of Order was pronounced in Open court)

(R. MURALIDHAR)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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