CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 61188 of 2025

[Arising out of Order-in-Original No. Pr.Commr/NA/LDH/Customs/08/2025 dated 19.08.2025 passed by the Principal Commissioner of Customs, Sahnewal, Ludhiana]

M/s Chiripal Poly Films Ltd. **……Appellant**
4, SIDCO Industrial Estate, Bhagthali,
Kathua, Jammu, J&K-184102

VERSUS

Commissioner of Customs, Ludhiana **……Respondent**
Customs House, ICD GRFL Complex,
G.T. Road, Sahnewal, Ludhiana-141120

APPEARANCE:

Shri Paresh M. Dave, Advocate for the Appellant

Shri Maheswar Maji and Ms. Amita Gupta, Authorized Representatives for the Respondent

CORAM: HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 60591/2026

DATE OF HEARING: 15.10.2026
DATE OF DECISION: 05.11.2026

P. ANJANI KUMAR:

M/s. Chiripal Poly-Films Ltd. have imported 60 number of 'Spools' for rolling mill under EPCG Authorization and have filed Bill of Entry No.6542707 classifying the same under CTH 8455 9000 as other parts of rolling mills and claimed exemption under Notification No. 26/2023-Cus. Revenue was of the opinion that the spools

imported were made of steel and, therefore, were correctly classifiable under CTH 7326 9099 and thus, the appellant resorted to mis-declaration and misclassification with a view to avail the benefit of EPCG scheme in an unlawful manner. The goods were seized on 04.12.2024. A show cause notice was issued and was confirmed vide the impugned order reclassifying the goods under CTH 7326 9099 ; denying the exemption claimed under the notification claimed; demanding differential duty of Rs.3,07,21,816; imposing penalty of equal amount under Section 114A and a redemption fine of Rs.50,00,000. Hence, this appeal.

2. Learned counsel for the appellant submits that the imported goods are spools for rolling mills and are capital goods for the appellant, as notified under EPCG scheme and Foreign Trade Policy. Spools are not excluded from capital goods irrespective of their classification under heading 8455 or heading 7326 of the Tariff, as the case may be. He submits that paragraph 5.1 of the Foreign Trade Policy allows import of capital goods, other than those specified in Appendix-5F for pre-production, production and post-production. Similarly, paragraph 11.08 of the FTP defines capital goods to mean any plant, machinery, equipment or accessories required for manufacture or production, either directly or indirectly, and includes packaging machinery and equipment. The customs notification also specifies in Explanation (A) that capital goods has the same meaning as assigned to it in paragraph 11.08 of the Foreign Trade Policy. He submits that it is noteworthy that the above provisions do not refer to HS classification of the goods in

order to classify the as capital goods; the provisions referred to functionality test in manufacture or production, directly or indirectly, and nature of capital goods does not depend on their description or classification; the spools are not excluded under Appendix-5F of the FTP; the spools in question were tailor made to the requirement of rolling mills and are crucial part for manufacture of aluminium foils. This aspect is neither denied nor disputed by Revenue. He relies on the following cases: -

(i) *JSW Steel Ltd. [2016 (340) ELT 262]*
(ii) *Cosmic Ferro Alloys Ltd. [2024 (8) TMI – CESTAT Kolkata]*
(iii) *Jindal Stainless Ltd. [2025 (3) TMI 855]*
(iv) *Ratna Mani Metal and Tubes Ltd. [2022 (9) TMI 1170 – CESTAT Ahmedabad]*
(v) *KGN Enterprises Ltd. [2013 (293) ELT 39 (T-Mum)]*
(vi) *Karnataka Power Corporation Ltd. [2016 (337) ELT 104 (T.-Chennai)]*
(vii) *Needle Roller Bearing Co. Ltd. [2000 (124) ELT 577]*
(viii) *Delhi Cloth Mills [1995 (78) ELT 685 (T)]*
(ix) *Mahindra Engineering and Chemical Products Ltd. [1999 (111) ELT 464 (T)]*.

2.1 Learned counsel for the appellant submits further that the impugned goods are specified in EPCG authorization as other parts. If the exemption is dependent on the classification, the EPCG authorization becomes redundant. Learned Commissioner wrongly relies on *KGN Enterprises Ltd.* (supra) and denies the exemption on the basis that ITCHS Code does not match with the classification given in the authorization. The facts oof the cases are different, in as much as the appellant therein imported items under CTH 8437 1000, i.e. machines for cleaning, sorting or grading seed, grain or dried leguminous vegetables whereas the actual goods imported were galvanized sheets with holes in pellets, nut bolts in bulk

packing, angles and frames of GI sheet with holes. There was no electrical or mechanical or thermal equipment. Learned counsel submits that, therefore, facts of the case are different. The argument of Revenue that in terms of Section Note 1(c) of Section 16 of the Customs Tariff Act does not cover spools, is incorrect. The section does not cover bobbins, spools, cops, cones, cores, reels or similar supports of any material. He submits that by applying the principles of *ejusdem generis*, the spools etc which only act as support for other materials are excluded and not the parts which are essential in a machine or equipment for the purpose of manufacture. He submits that further under Explanation (I)(A) of Section 16, the section covers all machinery and Note (I)(B) clarifies that the goods of this section may be of any material. He submits that in view of this note, parts which are suitable for use solely and principally with particular machines are classified in the same heading as machines. He further submits that Chapter 73 does not refer to parts of rolling mills like spools. CTH 73.26 wrongly arrived at by the Commissioner is a residual classification which cannot be preferred over a specific heading for parts of metal rolling mills. Further, as per the Explanatory Notes, heading 73.26 covers all iron or steel articles obtained by forging or punching, by cutting or stamping or by other processes such as folding, assembling, welding, turning, milling or perforating other than articles more specifically covered elsewhere. The impugned goods manufactured by technically complicated processes involving precision, sophistication or not obtained by the processes referred to under heading 73.26. He submits that even going by the General Rules for Interpretation of

the 1st Schedule to the Customs Tariff Act, i.e. Rule3(a), the heading which provides the most specific description is preferred. In the instant case, heading 8455 9000 is the most specific description and, therefore, requires to be followed.

3. Learned Authorized Representative appearing for Revenue submits that for legal requirement, the authorization is valid only for the specific CTH mentioned. The department's position is legally superior as it adheres to the strict terms of the license. It is not the case of the appellant that the claim of CTH is merely procedural. This principle has been followed in the case of *KGN Enterprises* relied upon by the Commissioner. Learned AR submits further that the evidence relied upon by the appellant is an expert opinion which contradicts the statutory provisions. Section Note 1(c) of Section 16 specifically excludes the spools of any material from Chapter 84. This provision is binding and absolute. Learned AR relies on *Videocon Industries Ltd. [(2023) 5 Centax 108 (SC)]*. Learned AR further submits that the appellant's claim that there was no misdeclaration with intent to evade payment of duty is not well founded. The appellant knowingly declared the goods under CTH 8455 9000 despite the clear exclusion in Section Note 1(c) and, therefore, case for invocation of Section 28(4) of the Customs Act, 1962 is well established. Learned AR submits that the penalty imposed the direct result of the proven evasion established under Section 28(4). The appellant's reliance on *Hindustan Steel* is of no help as the facts are different. Learned AR submits that, therefore, the extended period was rightly invoked and the goods were rightly

confiscated and thus, penalties were imposed while confirming the duty.

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

5. In the instant case, the appellant has imported spools for rolling mill as required by them for the rolling mill as capital goods and as authorized by the DGFT under EPCG license. Revenue seeks to deny the exemption for the reason that the impugned goods are classifiable under CTH 7326 9099 and the same CTH is not mentioned in the authorization and the exemption is not accordingly available. Revenue also contends that there is misdeclaration and the goods are rendered liable for confiscation and the appellant has rendered themselves for penalty. Two questions that arise for consideration in the impugned case are as to whether

(1) The difference in nomenclature and tariff heading given in the EPCG authorization and Customs Tariff shall disentitle the importer-appellant for the benefit due to them; and

(2) Whether the impugned goods are classifiable under CTH 7326 9099 as contended by Revenue or under CTH 8455 9000.

5.1 Coming to the first question as to whether the exemption is not applicable because of the difference in classification, we find that the goods are described as spools for rolling mill, both in the authorization given by DGFT as well as the Bill of Entry filed by the appellants. We find that para 5.1(a) of the Foreign Trade Policy specifies that EPCG scheme allows import of capital goods (except those specified in negative list in Appendix (5F) for pre-production,

production and post-production at zero customs duty. Para 5.1(a)(i) states that capital goods as defined in Chapter 11 including in CKD/SKD condition are eligible for exemption. Para 11.08 defines capital goods to be in any plant, machinery, equipment or accessories required for manufacture or production, either directly or indirectly, of goods or for rendering services, including those required for replacement, modernisation, technological up-gradation or expansion. It includes packaging machinery and equipment, refrigeration equipment, power generating sets, machine tools, equipment and instruments for testing, research and development, quality and pollution control. We also find that it is further clarified that Capital goods may be for use in manufacturing, mining, agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture and viticulture as well as for use in services sector.

5.2 We also find that Appendix-5F of the Handbook of Procedures lists capital goods which are not permitted or which are permitted for import subject to specific conditions under the EPCG scheme. It is not the case of Revenue that the spools imported by the appellant are under the non-permissible capital goods under Appendix-5F. We find that there is no definition given under the Customs Act for capital goods. Therefore, we are of the considered opinion that when the authority issuing EPCG license considers the impugned goods as capital goods as per the definition given in the FTP and the Handbook of Procedures, Customs have no reason to disbelieve the same to be capital goods depending on the classification that is be

arrived at under the Customs Tariff Act. It is pertinent to note that Exemption Notification No.26/2003-Cus, under Explanation (A) to the notification, provides that the capital goods have the same meaning as assigned to it in paragraph 11.08 of the Foreign Trade Policy. We find that there is no definition of capital goods given under the Customs Act. The authorization given by the DGFT and the Customs notification, issued in this regard refer to the definition given at paragraph 11.08 of the Foreign Trade Policy, at Appendix-5F of the FTP. Under the circumstances, we find that the Customs cannot take a view that the impugned goods are not capital goods as they are classified under a different heading. If at all the Customs were to deny the exemption, they were required to make a reference to the DGFT authorities to seek a clarification or request them to change the classification. We find that the Customs authorities have neither sought a clarification from the DGFT authorities nor got the authorization modified, rectified or annulled. With out doing so, they could not have disputed the eligibility of the goods, imported by the appellant-importer, for exemption under Notification No.26/2003-Cus, irrespective of the classification that may have been arrived at by the Customs. We find that our opinion gets support from the decision of the coordinate Bench at Chennai in the case of *JSW Steel Ltd. [2016 (340) ELT 262 (Tri.-Chennai)]* wherein the bench has observed as follows: -

> *"6. We have carefully considered the submissions of both sides. The short issue in this Revenue appeal is whether the respondents are eligible for clearance of the imported goods under SHIS Scheme as per Customs Notification No. 104/2009, dated 11-9-2009. The adjudicating authority has*

denied the benefit of Customs Notification pertaining to SHIS Scheme for clearance of goods covered under 7 Bills of Entry imported and cleared by the respondent and also ordered for classifying the goods under respective chapter headings instead of capital goods under Chapter 84. The LAA in his impugned order has set aside the OIO and held the goods as capital goods and allowed the SHIS benefit under the said notification and allowed respondent's appeal. Revenue in the grounds of appeal seeks to set aside the impugned order and pleads to restore the OIO contending that the goods imported by the respondents are not "capital goods" and not covered under SHIS Scheme. On a perusal of the OIA of the LAA, we find that he has discussed and recorded a detailed findings and also discussed the definition of "capital goods" provided under the policy governing SHIS Scheme at Paras 7 to 11 and examined the contract agreements with the foreign supplier for arriving at his conclusion as 'capital goods'. On a perusal of copy of the agreement dated 23-2-2011, we find the respondents had entered into agreement with M/s. JFE Shoji Trade Corporation, Japan for supply of capital goods of Continuous Annealing Line (CAL) and for Continuous Galvanizing Line (CGL) for Cold Rolling Mill Complex. Respondents also entered into agreement with the supplier for providing technical advisory for erection and testing and definition of the capital goods.

7. The preamble of the agreement at (A) & (B) is reproduced as under :-

A. The Purchaser has decided to purchase the Equipment for Continuous Annealing Line#1, (CAL#1) and Continuous Galvanizing Line (CGL) for Cold Rolling Mill Complex#2 Project which will be located at Vijayanagar, Toranagallu, District Bellary, Karnataka, India; and

B. The Seller has agreed to sell the Equipment for Continuous Annealing Line#1 (CAL#1) and Continuous Galvanizing Line (CGL) for Cold Rolling Mill Complex#2 Project in accordance with the terms and conditions of the contract.

From the above agreement, it is very clear that the contract is for the supply of CAL & CGL for the project which is set up at Vijayanagar, Toranagallu, District Bellary, Karnataka. On a perusal of the Article 4.0 of the Agreement, the consideration of the entire plant and machinery has been quoted single price which is known as "Contract Price". We also find that the entire contract is also covered under EPCG licence and majority of the goods were cleared as "capital goods" under EPCG. The Revenue's contention is that these are only individual parts and articles consisting of bolts, nuts etc. and they cannot be considered as 'capital goods' and same is not covered under SHIS Scheme.

8. In this regard, we find the Notification No. 104/2009-Cus., dated 14-9-2009 clearly allows exemption of capital goods imported into India against Duty Credit Scrip issued under SHIS Scheme. As per Para 3.16 of Foreign Trade Policy the definition of "capital goods" and the definition of "capital goods" as provided in the Explanation under the Notification 104/2009-Cus. are identical to the definition given in the FTP and covers capital goods "plant, machinery, equipment or accessories required for manufacture, production, either directly or indirectly, of goods and includes those required replacement, modernization, technological upgradation or expansion etc. On a perusal of the contract, it is abundantly clear that respondents are setting up the plant and machinery of the Expansion Project for CAL & CGL in the Cold Rolling Mill Complex. It is pertinent to state that respondent has set up integrated steel plant at Vijayanagar, Karnataka. The contract clearly shows the import of entire supply of equipments of plant and machinery of CAL & CGL. Obviously when the respondents are to import as per the contract the whole plant and machinery for CAL & CGL, the entire goods cannot be imported in one lot under single Bill of Entry. The LAA has brought out a detailed findings on this issue and we find that equipments imported under the invoices are nothing but CAL & CGL and also considering the price, it is a single contract price and the goods are rightly to be considered as capital goods. The definition of "capital goods" given in Foreign Trade Policy are one and the same for EPCG licence or for SHIS Licence. The department cannot take a different stand for the same goods as 'capital goods' in EPCG scheme and not capital goods under SHIS Scheme. Revenue's contention is that the goods imported are general purpose items i.e. Bolts & Nuts is not justified. Obviously, continuous annealing line has various sections as detailed in the impugned order. After assembly, it becomes a single Annealing Line. It is not the case of the department that respondent has placed orders for only spares or bolt and nuts and claimed as 'capital goods' under SHIS Scheme.

9. Revenue's relying Hon'ble Supreme Court decision in the case of Sony India (supra) which relates to import of components of Colour TVs in CKD condition and the same cannot be made applicable to this case. The Hon'ble Supreme Court in that case held that those goods which are brought not having essential character of Colour TV, it cannot be taken as Colour TVs whereas in the present case, it is the plant & machinery for setting up of new CAL/CGL for Cold Rolling Mill and as per the contract respondent set up expansion project of Cold Rolling Mill Complex where entire plant and machinery including technical advice for installation has been obtained from the supplier as per their

agreements. Therefore, the Hon'ble Supreme Court decision relied by Revenue is distinguishable and not applicable to the present case. Further, the present case relates to allowing benefit of exemption under SHIS as per Notification No. 104/2009 and the policy allows import of 'capital goods' under SHIS scheme. Further, we find that on a perusal of the Chartered Engineer certificate dated 31-3-2014 and 10-10-2014 wherein he has categorically certified that entire capital goods imported under SHIS scheme have been installed and commissioned in the respective projects and the department has also accepted as a fulfilment of towards licence. We are of the considered view that the goods imported are capital goods as per FTP Policy and the respondents are eligible for benefit of Customs Notification No. 104/2001 under SHIS Scheme for the clearance of the imported goods covered under 7 Bills of Entry. The LAA has given a clear finding on the issue and we do not find infirmity in the order of LAA."

We also find that this case has been relied upon consistently and recently in the case of *Jindal Stainless Ltd. [2025 (3) TMI 855 CESTAT Kolkata]*. Therefore, we find that the appellant is eligible for the exemption notification irrespective of the classification. We find that though the dispute in the above case, was regarding consideration of a particular item as capital goods for the purposes of SHIS, we find that the principle enunciated covers the present issue also.

5.3 Coming to the classification, we find that there is considerable force in the argument of the appellant that Note 1(c) of Section 16 of the Tariff provides that the section does not cover bobbins, spools, cops, cones, cores, reels or similar supports of any material. We find that the expression 'similar supports' refers to such goods which are supports for any material and not to parts which are essential in a machine or equipment for manufacturing purpose. Further we find that Revenue intends to classify under Chapter

73.26 for the reason that the Explanatory Notes clarify that the heading covers all iron and steel or steel articles obtained by forging or punching, by cutting or stamping or by other processes such as folding, assembling, welding, turning, milling or perforating other than articles more specifically covered elsewhere. It has not been established by Revenue that the impugned spools have been manufactured by the simple processes mentioned above. The appellant's contention that the spools used in the production of aluminium foils are produced by more technically complicated sophistication is not refuted by Revenue. However, at this juncture, as we found that exemption notification is available irrespective of the classification, we find that there is no need to discuss the classification of the impugned goods. When the exemption is available irrespective of classification, the allegation of misdeclaration with intent to evade payment of duty is nullified and accordingly demand of duty, penalty and redemption fine are not warranted. Accordingly, we find that the impugned order is liable to be set aside.

6. In view of above, the appeal is allowed.

(Order pronounced in the open court on 05/11/2026)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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