

**Customs, Excise & Service Tax Appellate Tribunal  
West Zonal Bench at Ahmedabad**

REGIONAL BENCH- COURT NO. 2

**EXCISE Appeal No. 11170 of 2019-DB**

(Arising out of OIA-CCESA-SRT-APPEAL-PS-836-2018-19 dated 28/02/2019 passed by Commissioner (Appeals), CGST & Central Excise -SURAT-I)

**Gayatri Engineering**

PLOT NO. 9, GOVT INDUSTRIAL ESTAT,  
MASAT, SILVASSA,  
DADRA AND NAGAR HAVELI

**..... Appellant**

*VERSUS*

**COMMISSIONER OF CGST &  
CENTRAL EXCISE-DAMAN**

3RD FLOOR...ADARSH DHAM BUILDING,  
VAPI-DAMAN ROAD, VAPI  
OPP.VAPI TOWN POLICE STATION,  
VAPI, GUJARAT- 396191

**.....Respondent**

**APPEARANCE:**

Shri Devashish K Trivedi, Advocate for the Appellant  
Shri A. R. Kanani, Superintendent (AR) for the Respondent

**CORAM:**

**HON'BLE DR. AJAYA KRISHNA VISHVESHA, MEMBER (JUDICIAL)  
HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER (TECHNICAL)**

**Final Order No. 10096/2026**

DATE OF HEARING: 15.10.2025  
DATE OF DECISION: 16.02.2026

**SATENDRA VIKRAM SINGH**

M/s Gayatri Engineering, Silvassa (Appellant) are engaged in the manufacture of "MS frame part" and "tank" for Transformers classifying the same under Chapter 85 of the Central Excise Tarif Act, 1985. During audit of their records, during April to June 2007, the officers observed that the appellant had shown clearance of "MS frame part" and "tank" for transformers under CTH 85049010 and paid duty @ 10% in terms of Sr. No. 346 of Notification No. 12/2012-CE dated 17.03.2012 as amended instead of correct classification of these items under CTH 73269099 as articles of Iron and Steel attracting Central excise duty @ 12%. The basis of their belief was that the goods manufactured were not used in/fitted with any electrical/mechanical devices and hence, not classifiable as parts of electric transformers. The

Revenue issued a show cause notice dated 09.02.2018 (which was received by the appellant on 27.02.2018), proposing classification of "MS frame part" and "tanks" for transformer under CTH 73269099 and demanding differential duty of Rs. 3,69,311/- under Proviso to Section 11A along with interest under Section 11AA and penalty under Section 11AC read with Rule 25 of the Central Excise Rules, 2002.

1.1 The show cause notice was adjudicated by the Assistant Commissioner vide order dated 18.10.2018 wherein he held classification of the products under CTH 73269099, confirmed differential duty of Rs. 3,69,311/- under Section 11A(4) along with interest under Section 11AA of the Central Excise Act, 1994 and imposed penalty @ 50% of the duty amount under Section 11AC read with rule 25 of the Central Excise Rules, 2002. Aggrieved with this order, the appellant filed appeal before the Commissioner (Appeals) who vide impugned order dated 28.02.2019 upheld the order of the lower authority and rejected the appeal. Hence, the present appeal before Tribunal.

2. In appeal, the appellant took following grounds:-

- The impugned order is in gross violation of principles of natural justice as the lower authorities have not considered their grounds and submissions. The authorities below have treated the goods as Articles of iron and steel and confirmed classification under 73269099 leviable to duty @ 12% whereas these parts have been manufactured by them as per specific drawing provided by the respective buyer as parts of transformer. They made factual submission in the form of copy of the invoices, purchase orders and the drawings and design supplied by the buyers to establish that these parts were specifically manufactured for transformer, the authorities held their classification as articles of iron and steel under CTH 73269099 is not justified. As they had manufactured these parts as original equipments for manufacturing of transformers, these are appropriately classifiable under CTH 85049010.

- They also submitted copy of the Chartered Engineer's certificate dated 09.04.2018 certifying that the disputed products are parts of transformers only and not parts of general application. Similar certificates were also submitted of the buyers namely M/s Kryfs Power and M/s Sudhir Transformers clearly certifying that MS frame part and Tanks supplied by the appellant are exclusively used in the manufacture of transformers.
- They rely on the decision of Hon'ble Apex Court in the case of G.S. Auto International Ltd Vs. CCE Chandigarh reported at 2003 (152) ELT 3 which held that classification of goods to be determined by commercial identity test and not by functional test. Goods to be classified as to how they are referred in the market by those who deal with them, be for the purpose of selling, purchasing or otherwise. Words used by the legislator must be given their popular sense. Same view has been upheld by Hon'ble Apex Court in the case of Cast Metal Industries Pvt Ltd. Vs. CCE, Kolkata- IV reported at 2015 (325) ELT 471.
- Tribunal in the case of CCE, Bangalore Vs. Deccan Structural Systems- 2000 (116) ELT 299 while accepting classification of parts of transformer stated that transformer tanks, frames and transformer radiators being parts of transformer are eligible to exemption under Notification No. 160/86-CE. Similarly CESTAT New Delhi in the case of Marksons Radiator Vs. CCE, Nagpur- 2000 (124) ELT 473 and CESTAT Kolkata in the case of Steel Weld (India) Vs. Commissioner of C. Ex. Calcutta-II reported at 2003 (153) ELT 345 held that tanks for transformers are parts of transformer and as per the express wordings of the Notification 160/86, such tanks are not excluded from the benefit available thereon.
- The show cause notice dated 09.02.2018 is issued for demanding duty for the period from March,2014 to December, 2014 whereas they have been regularly filing monthly ER-1 returns showing description of the product and its classification under CTH 85049010. They have neither mis-stated nor suppressed anything from the department and so, extended period of

limitation in this case is not applicable. On same grounds, penalty under Section 11AC is not imposable on them. They rely on the decision of Hon'ble Supreme Court in the case of Jaiprakash Industries Ltd. Vs. CCE, Chandigarh reported at 2002 (146) ELT 481 (SC) wherein it is held that bonafide doubt as to non dutiability of goods was sufficient for the assessee to challenge demand on point of limitation. Similarly, Hon'ble Supreme Court in the case of Continental Foundation Jt. Venture Vs. Commissioner f C. Ex., Chandigarh-I 2007 (216) ELT 177 (SC) held that mere omission to give correct information was not suppression of fact unless it was deliberate and to stop the payment of duty. Likewise, Hon'ble Supreme Court in the case of Padmini Products reported at 1989 (43) ELT 195 (SC) and Camphor Drugs and liniments reported at 1998 (40) ELT 276 (SC) respectively held that even in cases where certain information was not disclosed, which assessee was under bonafide impression that it was not duty bound to disclose such information, it would not be a case of suppression of facts. In view of the above, they prayed for allowing their appeal and setting aside the impugned order.

3. During hearing, Learned Advocate drew attention of the bench towards purchase orders given by the respective buyers along with specific drawing of the parts to establish that the disputed products so manufactured, were indeed part of transformers and were correctly classified by them under CTH 85049010. With the help of certificate issued by the independent Chartered Accountant and also of the buyers, he emphasises that correct classification of the goods was under chapter 85 as parts of transformers and not as articles of iron and steel under CTH 73269099. As an alternate argument, he pleads that extended period is not invocable in this case as they had fully disclosed all the facts to the department in their periodic returns so filed and have not suppressed anything. He also states that the appellant has not been issued any show cause notice for the subsequent period. Learned Advocate prayed

that they have very strong case both on merit as well as on limitation and therefore, pleaded to set aside the impugned order and grant them relief.

4. Learned AR argued that the issue of misclassification of manufactured products and short payment of duty was detected by the Audit officers during audit of their records. The goods manufactured are MS Frame parts/gland plate part/MS Tanks which were not fitted with any motor or mechanical/electrical devices and therefore, are correctly classifiable under CTH 73269099 as Articles of iron and steel attracting duty @ 12% and not as parts of electric transformer as claimed by the appellant. He reiterated finding of the Commissioner (Appeals) and prayed that the appeal may be dismissed and the impugned order may be upheld.

5. We have considered the rival submissions. The appellant's claim that revenue has not issued any show cause notice for the sequel period even though they continued to classify the said products under CTH 85049010, was got verified through learned AR who forwarded a letter dated 23.06.2025 of CGST Daman Commissionerate confirming that no demand show cause notice has been issued to the tax payer for the subsequent period. We have also seen copies of the purchase orders duly supported by the drawing and design of the concerned part which shows that the buyer has specifically ordered MS tanks/ MS frame part/gland plate part for a particular capacity of the electrical transformer. Copy of one such purchase order dated 03.11.2014 of M/s Sudhir placed by Sudhit Transformers Ltd, Masat is reproduced below:-

**sudhir**  
Powering the Nation

SUDHIR TRANSFORMERS LIMITED - MASAT  
(Formerly: Sudhir Intra Vidyut Ltd.), Plot No. 444/4, Masat Industrial Area  
Masat Silvassa  
DN INDIA, PIN :  
Ph. : +91260-2641182  
CIN : U85110KA1993PLC016063  
Email : admin@intravidyut.com



ISO No. : STLA47.04  
ISSUE No. : 00  
ISSUE Dt. : 01/04/2014

Tin No :	28002001140 dt. 01.04.2008	STANDARD	PURCHASE ORDER
CST No :	DHN/CST/M/1141 DT 01.04.2008		PO No : 4021500481
ECC No :	AAACI4456JXM002	Draft Copy	
Range :	Silvassa-V, 1st Floor, Above HDFC Bank		Dated : 03-NOV-14
Commissionerate:			
Division :	Silvassa-II		
Vendor Code :	6311	Contact No :	98251 65928
GAYATRI ENGINEERING		Contact Email ID :	gayatriengg09@rediffmail.com
PLOT NO.9, GOVT. INDUSTRIAL ESTATE MASAT SILVASSA DADRA & NAGAR HAVELI, 398230		Contact Person :	Mr. Vipul

S.No	Description	Unit	QTY	Unit price	Discount%	Excise AD	Sales Tax/VAT	Amount		
	Note To vendor			Basic Amt	Disc Amt					
1	TR0020036 - MS TRANSFORMER TANK FOR 2500 KVA AS PER DRG:SO-12-192 OF 2500 KVA X 2 NOS, 1 TANK WT : 1010 KG, TANK WITH SAND BLASTING 100 % LEAK PROOF VACCUME PRESSURE TEST, H R PAINT INSIDE ALONG WITH EPOXY PRIMER.	KG	2010	76.00 152760.00	0.00 0.00	15735.00 15735.00	0.00	168495.00		
2	TR0020073 - SS LV TRUNKING PLATE SO-12-192 OF 2500 KVA X 2 NOS,	NOS	2	5000.00 10000.00	0.00 0.00	1030.00 1030.00	0.00	11030.00		
3	TR0020036 - MS TRANSFORMER TANK FOR 2500 KVA AS PER DRG: SO-14-501 OF 2500 KVA TANK WITH SAND BLASTING 100 % LEAK PROOF VACCUME PRESSURE TEST, H R PAINT INSIDE ALONG WITH EPOXY PRIMER.	KG	1100	76.00 83600.00	0.00 0.00	8611.00 8611.00	0.00	92211.00		
4	TR0020073 - SS LV TRUNKING PLATE AS PER DRG: SO-14-501 OF 2500 KVA TANK	NOS	1	5000.00 5000.00	0.00 0.00	515.00 515.00	0.00	5515.00		
Qty Total :								3113.00	Total :	277251.00

Checked By

Approved By

Authorized By

This is system generated document, hence no signature required

5.1 We have also perused the certificates issued by both the buyers namely M/s Sudhir Transformers Ltd and M/s Kryfs Power Component Ltd Unit-II certifying that "whatever MS tank and its accessories procured from M/s Gayatri Engineering, Plot No. 9, Government Industrial estate, Masat, Silvassa is exclusively used for our finished product(transformer) and no other uses of

the same." We have also seen certificate dated 09.04.2018 issued by Shri Rajesh Patel, Chartered Accountant (reproduced below) clearly stating that "these products are used as parts and accessories in different varieties of electrical transformers: -

### Reliable Testing / Krishna Services

**Rajesh Patel** B.L. (Mech) M.E. (India)  
Chartered Engineer - M/10492170, Fellow F 120790-5  
Fellow IPE Bangalore SF 0858  
Diploma in Fire Engineering & Industrial Safety  
Life Member of National Safety Council - LM-DNH-6

- Chartered Engineers
- Safety Audits
- Installation Certification
- Vibration Analysis
- Boiler Engineer
- Calibration of Process Instru. & Storage Tanks
- Factory Building Stability
- Risk Assessments, All EHS Activities
- Invoice Certification for Export
- Competent Authority Daman, D&NH
- Thermography
- Radiography

Regd. Office: H-804, Sahajanand Park, Near Dokmardi Bridge, Kiliwani Road, Silvassa - 396 230  
Office: Shop No. D7A, Plot No. 123, Amid-Tera Complex, Kiliwani Naku, Silvassa - 396 230

Mob.: +91 9550824077 / +91 9000954383  
E-mail: rajeshpatelreliabletesting@gmail.com

1 34  
**S.A.S**

To Whomsoever it may Concerned

#### Chartered Engineer Certificate

This is to certify that -

1. The products listed below, amongst others, are manufactured by M/s. Gayatri Engineering, situated at Plot No. 9, Govt. Industrial Estate, Masat, Silvassa, Dadra & Nagar Haveli (U.T.) against specific orders from their customer M/s. Sudhir Transformers Limited, Masat and M/s. Kryfs Power Components Ltd., and delivered to them. M/s. Gayatri Engineering is registered with Central Excise as manufacturer under Registration No. AAHFG3224HEM002
2. These products are used as parts and accessories in different varieties of Electrical Transformers. The said parts & accessories are not used for any other products or do not have any general application.
3. The products described below are used only in specific types of Transformers for which they are ordered by the customers and manufactured only against specific orders from the said customers in accordance with the designs / specifications provided by them. These products are usable principally and solely with transformers of specific type only and are not manufactured for stock and sale as they have no general application and therefore cannot be termed as "parts of general use"

09/04/2018



2  
 (33)

- MS Transformer Tanks for Transformer of different ampere ratings with accessories
- Frame Parts of Transformers
- Trunking Plates

4. It is certified that this certificate is issued on the basis of verification of the invoices issued by M/s. Gayatri Engineers, purchase orders raised by their customers along with the complex designs / specifications / Drawings provided by the customer vis-à-vis the production process.

5. Certified as above under my signature and date



(Rajesh Patel)  
 Chartered Engineer M 104921/0 & Fellow F -120790-5  
 Fellow IIPE Bangalore - SF 0856  
 Life Member of National Safety Council LM-DNH-6  
 Fire Engineer & Industrial Safety Engineer  
 Competent Person, Daman, Dadra, Silvassa, Gujarat-GU/JDISH/CPT/A/0520/2015



Date:09-04-2018  
 Place:Silvassa 396230

Enclosed, Catalogue of M/S. Kryfs & Sudhir

5.2 We find that the issue of classification of transformer tanks and frames and availability of Notification No. 160/86-CE of the goods was dealt with by CESTAT Bangalore in the case of Deccan Structural Systems (cited supra) wherein it was held that transformer tanks, frames, transformer radiators, etc. are parts of transformers and revenue has not disputed their classification under CTH 8504 of the Central Excise Tariff Act 1985. In this case, buyers have given purchase orders but also supplied drawings for manufacture of MS tanks, Ms frame parts and Gland plate as parts of transformers so as to fit in with a particular capacity of electrical transformer. We therefore, are of the view that the goods manufactured by the appellant are parts of transformers and not the articles of iron and steel. The say of the appellant is also supported by the certificate given by both the buyers who have certified that the goods so procured from the appellant have been used in the manufacture of transformer and not elsewhere. The certificate given by the independent Chartered accountant reinforces the above. We agree with the contention of

the appellant and hold that the goods manufactured by the appellant are correctly classified under CTH 85049010. Other two case laws namely Marksons Radiator and Steel Weld (India) (cited supra) are not directly relevant to the facts of the present case and hence, are not discussed.

5.3 As regards invocation of extended period, we find that Commissioner (Appeals) has not discussed this issue in the impugned order. We observe that the appellant has clearly shown in their ER-1 returns that they are clearing MS frame parts and MS tanks for transformer under CTH 85049010 and paid excise duty @ 10%. Therefore, manufacture of MS frame parts and MS tanks for transformer and its clearance under CTH 85049010 was in the knowledge of the department right from the beginning and it was never questioned by the revenue authorities. During audit conducted during April to June, 2007, this point was raised by the officers which culminated in present demand. When all the facts were in the knowledge of the department, invocation of extended period of limitation is not available to Revenue.

5.4 As discussed above, we hold that the appellant has correctly classified their finished goods under CTH 85049010 and therefore, we find no reason to interfere with classification of these goods. The appellant therefore, succeeds both on the merit as well as on limitation. Accordingly, we set aside the impugned order with consequential relief, if any as per law.

6. The appeal is allowed.

*(Pronounced in the open court on 16.02.2026)*

**(DR. AJAYA KRISHNA VISHVESHA)**  
**MEMBER ( JUDICIAL )**

**(SATENDRA VIKRAM SINGH)**  
**MEMBER ( TECHNICAL )**