CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

CUSTOMS APPEAL No. 87686 of 2024

(Arising out of Order-in-Appeal No. 1024(Gr.I&IA)/2024(JNCH)/Appeal dated 31.07.2024 passed by the Commissioner of Customs (Appeals), Mumbai Zone-II, JNCH, Nhava Sheva)

Commissioner of Customs (Import), NS-I **.... Appellant**
Nhava Sheva-I Customs Commissionerate
Jawaharlal Nehru Custom House (JNCH)
Nhava Sheva, Taluka Uran,
District Raigad, Maharashtra – 400 707.

Versus

Pioma Chemicals **.... Respondent**
101-103, Shyam Kamal
D-Wing, Agarwal Market
Ville Parle (East), Mumbai - 400 057.

APPEARANCE:

Shri M.Y. Patil, Authorized Representative for the Appellant

Shri Chirag Shetty, Advocate for the Respondent

CORAM:

HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85699/2026

Date of Hearing: 10.03.2026
Date of Decision: 01.06.2026

PER: M.M. PARTHIBAN

This appeal has been filed by the Commissioner of Customs, Nhava Sheva-I Customs Commissionerate, JNCH, Nhava Sheva (herein after, referred to as 'the appellant'), pursuant to the directions given by the Committee of Commissioners of Customs consisting of Commissioner of Customs, NS-II and Commissioner of Customs, NS-I directing that in terms of sub-section (2) of Section 129A of the Customs Act, 1962 to file an appeal assailing the Order-in-Appeal No. 1024(Gr.I&IA)/2024(JNCH)/ Appeal dated 31.07.2024 (herein after, referred to as 'the impugned order', for short) passed by the Commissioner of Customs (Appeals), JNCH, Nhava Sheva, Mumbai Zone-II. In the impugned order, learned Commissioner (Appeals) had set aside the assessment order passed by the original authority in denying the benefit import duty exemption on the impugned goods and allowed consequential relief to the respondent importer.

2.1 The brief facts of the case are that the respondent herein had imported various oils viz., 'Peanut (Arachis) Oil refined (edible grade)'; 'Sunflower Oil refined solvent extracted (edible grade)'; 'Walnut Oil refined (edible grade)'; 'Almond Oil refined (edible grade)'; 'Macadamia nut oil (edible grade)' by classifying it under Customs Tariff Item (CTI) 1508 9091/ 1512 1910/ 1512 9091 and 'Candelilla Wax refined in pastilles', declaring classification under CTI 2712 9090 in the Bill of Entry (B/E) No. 3448686 dated 12.05.2024. The goods were imported from M/s Gustav Heess GMBH, Germany and the respondent importer had sought clearance of goods from Customs authorities claiming customs duty exemption under Serial No. 64 and 71 of the Notification No.50/2017-Customs dated 30.06.2017. The self-assessed B/E was scrutinised by Faceless Assessment Group (FAG) at Kandla Port and they had observed that there is big difference in the value of goods, and as per declared use being hair oil, skin care products, there is mis-declaration in the imports and thus forwarded the B/E for scrutiny by Port Assessment Group (PAG), Nhava Sheva Port.

2.2 On scrutiny of the import documents, perusal of the submissions made by respondent importer and after providing an opportunity for personal hearing, the Deputy Commissioner of Customs, Appraising Group-I & IA, NS-I, JNCH, Nhava Sheva had rejected the self-assessment made by the respondent importer by denying the exemption benefit claimed under Notification No.50/2017-Customs dated 30.06.2017, in passing an order under Section 17 (4) of the Customs Act, 1962. Being aggrieved with the order of the original authority, respondent importer had preferred an appeal before the Commissioner of Customs (Appeals). In the appeal proceedings, learned Commissioner (Appeals) had set aside the order of the original authority and allowed the benefit of customs duty exemption to the respondent importer vide Order-in-Appeal dated 31.07.2024. Feeling aggrieved with the said Order-in-Appeal dated 31.07.2024, which is impugned herein, the appellant department have filed this appeal before the Tribunal.

3.1. Learned Authorized Representative (AR) for the department had submitted that the imported goods is required to fulfil two conditions as provided under Serial No. 64 and 71 of the Notification No.50/2017-Customs dated 30.06.2017, in order to claim exemption from payment of Customs duty. He further stated that while the imported goods are covered by the specific chapter heading/CTI mentioned therein, since the goods

have been declared by the respondent themselves being "for use in other than food", the imported goods do not satisfy the essential condition of 'edible grade' as defined in the supplementary note to chapter 15 of the First Schedule to the Customs Tariff Act, 1975.

3.2 He further stated that in terms of CBEC Circular No.40/2001-Customs dated 13.07.2001, the term 'edible oil' means vegetable oils and fats for human consumption, and therefore he claimed that imported oils used for cosmetic, pharmaceutical use will not qualify for being considered as 'edible' and thus not eligible for the exemption provided under notification dated 30.06.2017. On the aspect of the disputed duty amount being within the threshold limit for non-filing of appeal before the Tribunal in terms of Central Governments' litigation policy, he submitted the letter dated 02.07.2025 of the jurisdictional Commissioner stating that the disputed issue involves classification of the imported goods which is recurring in nature, and therefore they continue to pursue the appeal in the present case.

4.1 Learned Advocate appearing for the respondent submitted that the imported goods fulfil all the requisite conditions of the notification dated 30.06.2017. Out of eight items imported under B/Es No. 3448686 dated 12.05.2024 for which they had claimed the duty exemption, seven items viz., peanut oil, walnut oil, almond oil, macadamia nut oil are covered under chapter headings 1508, 1512 and sunflower oil under CTI 1512 1910, vide Sl. No. 64 and 71 of notification dated 30.06.2017. Further, the imported goods have been tested by the government approved laboratory i.e., M/s Doctors' Analytical Laboratories Private Limited, Mumbai and certified to be of confirming to 'edible grade' as per the test parameters in terms of Food Safety and Standards Authority of India (FSSAI) Regulations. These facts have been recorded in the impugned order by the learned Commissioner (Appeals). There is no further condition of 'end use' prescribed in the aforesaid notification dated 30.06.2017, and therefore the claim of the Department that the condition of exemption notification have not been fulfilled by the declared use of the product in cosmetic, pharmaceutical use by the respondent importer, as these are not directly consumed by human being is misplaced and is not legally valid.

4.2 In support of their stand, learned Advocate had relied upon following decisions of the judicial forum in the respective cases mentioned below:

(i) *Inter Continental (India) Vs. Union of India* - 2003 (154) E.L.T. 37 (Guj.) which was upheld by Hon'ble Supreme Court in 2008 (226) E.L.T. 16 (S.C.)

(ii) *Commissioner of Customs (Import), Mumbai Vs. Dilip Kumar & Company* – 2018 (361) E.L.T. 577 (S.C.)

(iii) *VVF India Limited Vs. Union of India & Ors.* – Special Civil Application No.4418 of 2014 – Gujarat High Court

In view of the above submissions, learned Advocate pleaded that the appeal filed by the Department may not be entertained.

5. We have heard both the learned Authorized Representative of the Department and the learned Advocate appearing for the respondent and have perused the case records along with the additional submissions made in the form of paper book, synopsis.

6. The dispute between the appellant department and the respondent-importer lies in the appropriate categorization of imported goods, by determining whether it is of 'edible grade' or otherwise; and thereafter deciding on the applicability of the Notification No.50/2017-Customs dated 30.06.2017; and whether the adjudged demands confirmed by the original authority, which was set aside by the first appellate authority i.e., Commissioner of Customs (Appeals) is sustainable or otherwise?

7. The respondent-importer has declared the goods as 'peanut oil, walnut oil, almond oil, macadamia nut oil (Edible Grade)' by classifying these under chapter headings 1508, 1512 and as 'sunflower oil (Edible Grade)' by classifying it under CTI 1512 1910, for availing customs duty exemption vide Sl. No. 64 and 71 of Notification No.50/2017-Customs dated 30.06.2017. There is no dispute on the classification of goods under the declared headings/CTI of the First Schedule to the Customs Tariff Act, 1975. The dispute lies in narrow compass of determining whether such imported goods are of 'edible grade' or 'other technical/industrial grade' for the purpose of determining whether customs duty exemption is available on such imported goods or not.

8.1 Before we consider the submissions made by both sides, it is important to note that the undisputed facts with the respect to the factual matrix of the case are as follows:

(i) The representative samples of imported goods i.e., 'peanut oil, walnut oil, almond oil, macadamia nut oil, sunflower oil' were sent for testing to Government approved laboratory and the test reports

stated that such goods conform to edible grade as per the tests performed for its composition as per FSSAI Regulations;

(ii) Doctors' Analytical Laboratories Private Limited, Mumbai, at which the imported goods were sent for testing is an approved Laboratory by the FSSAI/NABL.

(iii) the exporter M/s Gustav Heess GmbH, Germany had vide letter dated 29.05.2024 had stated that they have been supplying the vegetable & carrier oils and Butters through the respondent importer, who is their authorised distributor, for over a decade, and these are 'refined and edible grade' as given under their 'Certificate of Analysis. These goods are for human consumption only and the products are used widely in pharmaceutical, personal care and cosmetics industry, for the reason that they are suitable for human consumption. These goods have been tested by various customs authorities at the port of import, in the past and that there is no dispute with respect to its 'edible grade'.

(iv) There is no end use condition to be obtained from any authority or to be furnished before any authority for claiming such customs duty exemption under Notification No.50/2017-Customs dated 30.06.2017.

8.2 The adjudicating authority, for denying customs duty exemption vide Sl. No. 64 and 71 of Notification No.50/2017-Customs dated 30.06.2017 had given the following findings:

"7. I find that the importer has himself declared in the Bill of Entry that the goods are for use in other than food application i.e. Cosmetic use only, which means the imported goods ordered for industrial use only & not for food application. As per the importer's declaration/submissions, the imported goods are to be used in Pharmaceutical & Cosmetics application for manufacturing of skincare formulations/products, hair oil, hair cream etc. Thus, the imported goods have intended end use in industrial purposes for manufacturing of cosmetics/beauty products. I find that the importer has misinterpreted the meaning of term "meant for human consumption". The uses of skincare formulations, products, hair oil, hair cream etc. are of the external nature and are not included under the scope of the term "meant for human consumption".

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10. I find that the exemption notification 50/2017-Cus does not define the scope of the term "edible grade". Therefore, the definition available grade as per Supplementary Note 1 to Chapter 15 of the Customs Tariff may be adopted. This note reads as follows:

> *"In this Chapter, "edible grade", in respect of a goods (i.e. edible oil) specified in Appendix B to the Prevention of Food Adulteration Rules, 1955, means the standard of quality specified for such goods in that Appendix."*

It is clearly evident from the above supplementary note that the edible grade refers to the edible oil i.e. which is meant for human consumption.

11. It is a well-established legal principle that the Chapter Notes, Section Notes and Rules of Interpretation of the Customs Tariff are meant to interpret the tariff and they cannot be applied to interpret exemption notifications. The description of the goods in any exemption notification must be interpreted as they are commonly understood. In view of this, I hold that the intent of the notification is to provide concessional rate of duty to the goods intended only for human consumption. Therefore, benefit of 'Edible grade' is not available to the imported goods.

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13. To fortify my stand, I also place reliance on the decision of the Hon'ble Supreme Court in the case of Commissioner of Customs (Import) Vs. Dilip Kumar and Company….

14. In view of the above decision of the Hon'ble Supreme Court, even if there is ambiguity in the exemption notification, it is to be resolved in favour of revenue. The expression "refined and the edible grade" in the exemption notification has to be read as that which is used for human consumption and not for industrial use.

15. Therefore, on the basis of discussions and findings, I find that the impugned goods are not eligible for benefit of Notification No.50/2017-Cus dated 30.06.2017, Sr. No.64 & 71."

8.3 Learned Commissioner (Appeals) had also examined the issue of categorization of imported goods whether as food grade or industrial grade, requirement of exemption entries under Sl. No. 64 and 71 of Notification No.50/2017-Customs dated 30.06.2017. In deciding that the imported goods are of 'edible grade', he had relied upon the test reports of M/s Doctors' Analytical Laboratories Limited. The relevant paragraphs of the impugned order dated 31.07.2024 is extracted below:

"6.5 For claiming benefit under sr. No.64 of notification No.50/2017-Cus. dated 30.06.2017, the goods should be firstly classifiable under chapter heading 1508, 1510, 1512 (other than 15121910), 1513 or 1515 and secondly all these goods should be refined and edible grade. No further condition is required to be fulfilled as there is no other condition (such as end-use) imposed for claiming these benefits. Therefore, if both these parameters are fulfilled by any goods they are eligible for benefit under sr. No.64 of notification No.50/2017-Cus. dated 30.06.2017. I find that for items that sr. no. 1, 3, 5, 6, 7, and 8, benefit under sr. No.64 of notification No.50/2017-Cus. dated 30.06.2017 has been claimed. Since, classification of these items under chapter heading 1508 and 1515 has been accepted by the Ld. OA, first parameter has been fulfilled. Now coming to the second parameter that is whether these are refined and edible grade, I find that the department forwarded the representative sealed samples of all these items i.e. Macadamia Nut Oil Refined (Edible Grade), Sunflower Oil Refined Solvent extracted, Walnut Oil Refined (Edible Grade), Candelilla Wax Refined in Pastilles, Almond Oil Refined (Edible Grade), and Peanut Oil Refined (Edible Grade) imported vide live Bill of Entry No.3448686 dated 12.05.2024 for testing to the Government approved laboratory i.e., Doctors' Analytical Laboratories Private Limited. Out of 6 test Report Nos., 04053, 04054A, 04055A, 04056, 04057 and

04058A all dated 29.06.2024, five test reports confirmed that the goods are Edible grade as declared and the sixth report confirmed the tested goods are Candelilla Wax Refined in Pastilles as declared. The Ld. Original Authority has also not questioned the grade of these items and accepted them as refined and of edible grade.

6.10 … The Ld. OA has accepted the classification of the impugned goods and the Certificate of Analysis for these goods as well as the Test Reports issued by the Doctors' Analytical Laboratories Private Limited has confirmed that the impugned goods are refined and of edible grade, thus both the conditions have been fulfilled and therefore, since, the end-use of the goods is not a condition specified, even though these are intended for use in other than foods will be eligible for the exemption. In this regard, I place reliance on the judgement of the Hon'ble CESTAT in the case of M/s Ritika Pharmatech Vs. Commissioner of Customs, New Delhi in Customs Appeal No. 52158 of 2018, wherein the Hon'ble CESTAT has held as under:…

The ratio of decision of the above case law is applicable for the impugned the case. In the instant case both the condition of classification and refined and edible grade are fulfilled. Hence, the benefit of notification is admissible for the impugned goods as claimed by the appellant."

8.4 The supplementary note to Chapter 15, reads as under

"Supplementary Notes :

1. In this Chapter, "edible grade", in respect of a goods (i.e. edible oil) specified in Appendix B to the Prevention of Food Adulteration Rules, 1955, means the standard of quality specified for such goods in that Appendix."

The Annexure-B to the Prevention of Food Adulteration Rules, 1955, prescribe the requisite standards of quality of the various articles of food specified therein. The Food Safety and Standards (FSS) Act, 2006 has come into effect from 05.08.2011. The Prevention of Food Adulteration (PFA) Rules, 1955 stood repealed with commencement of the FSS Act. FSSAI takes up the issue of effective implementation and enforcement of the provisions of FSS Act, Rules and regulations thereunder with the State authorities. The Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011 also prescribe the standards to be adhered to by the edible oil including Sunflower Oil, Almond oil etc. It is also displayed in the official website of the FSSAI, the complete list of laboratories approved by FSSAI and NABL, and that the Doctors' Analytical Laboratories Private Limited, Mumbai finds place as one among them. The extract of the same is given below:

S.No	Name and Address of the Laboratory	Registration Number	NABL Certificate Number	NABL-FSSAI Integrated Assessment Certification of Accreditation (Y/N)	Contact Person Name and Details	Name of Food Analyst	Validity Chemical	Validity Biological	Validity Radiological	Validity Other
							the detailed scope may be seen from the NABL website : https://nabl-india.org/ under Laboratory Search for an Accredited Laboratory using NABL Certificate (TC) Number of the laboratory.			
98	Bee Pharmo Labs Pvt. Ltd., Thane C-2, Hatkesh Udyog Nagar, Mira Bhayander Road, Mira Road (E), Dist. Thane	40/W/FSSAI/2017	TC-5497	Y	Mr. Bhavesh Limbachiya (Technical Director) Mobile: 9820113704 Email: bhavesh@beepharmo.com, food@beepharmo.com	Ms. Amruta Ramchandra Sutar; Ms. Shivangi Shirish Sarang	06th May, 2027	06th May, 2027	Not Applicable	Not Applicable
99	Doctors' Analytical Laboratories Private Limited, Mumbai Plot No. R 809, TTCMIDC Rabale, Off. Thane Belapur Road, Rabale, Navi Mumbai - 400701	4/W/FSSAI/2014	TC-13569	Y	Mr.Ashay Sanjay Mehta (Director) Tel. No. 022-71895000 Mobile: 9892333660 Email: ashay.mehta@dalpl.co.in ; quality@dalpl.co.in;	Mr. Bal Shantaram Prabhu	12th Jan, 2028	12th Jan, 2028	Not Applicable	Not Applicable

In the test reports given by Doctors' Analytical Laboratories Private Limited, the FSSAI authorized laboratory, having clearly stated that the imported goods did confirm to the tested parameters considering the standards prescribed under FSSAI Regulation, and in verifying the edible grade it is reported as "*It conforms to edible grade as per the tests performed*." Thus, based on such a laboratory test reports, the standards prescribed by FSSAI authorities have been fulfilled and in terms of the Supplementary Note, it could be concluded that imported goods are of "edible grade", as per the parameters given by FSSAI, which is also tested and reported. Therefore, it is a sufficient evidence/ document for coming to the conclusion that the imported goods are of edible grade, and are eligible for extending the exemption benefit under Notification No.50/2017-Customs dated 30.06.2017. Hence, we find that the impugned order is legally sustainable in extending the aforesaid notification benefit and in setting aside the order of the original authority.

9.1 In this regard, we find that in the identical facts of the case involved in respect of *Ritika Pharmatech Vs. Commissioner of Customs, New Delhi* - 2019 (370) E.L.T. 626 (Tri. - Del.), the Co-ordinate Bench of the Tribunal has held that the exemption benefit is extendable to the imported goods as these are refined and edible grade. The relevant paragraphs of the said order is extracted below:

> ***"5.*** *A glance at the above table provides that for the consignment classification under Chapter sub-heading 1515 only condition required for getting the benefit of exemption notification is that it has to be refined and of the edible grade. Since the appellant's consignment was certainly ultra refined and of edible grade as certified by the supplier, they are fully entitled for benefit of concessional rate of basic customs*

duty under Notification No. 12/2012 as they met the requirement of products mentioned in S. No. 58 of the said notification.

6. *Learned Advocate also has taken us through the reassessment order passed by the Learned Asstt. Commissioner which has classified the imported consignment under Chapter sub-heading 1515 90 91. The classification in the above mentioned sub-heading 1515 90 91 is for edible grade oils only. Thus, the Learned Advocate has tried to impress that even the Assessing Officer is in agreement that classification declared of the imported consignment by the appellant on the Bill of Entry that the imported consignment is of edible grade. The only ground of the department for denying them the notification benefit is that since the imported consignment was meant for manufacturing of cosmetics.*

7. *We have also heard the Learned DR who has reiterated the findings given in the impugned order of the Commissioner (Appeals).*

8. *We have heard both the sides and carefully perused all the relevant records of the appeal. It can be seen that the imported consignment of the Shea Butter Ultra Refined is classifiable under Chapter sub-heading 1515 90 91 of the Customs Tariff Act, 1975. From the perusal of the Bill of Entry, it is seen that the importer appellant has correctly declared the consignment while filing Bill of Entry for clearance of Shea Butter Ultra Refined. It has been contested that M/s. Hall Star, who are supplier of the imported consignment has provided a certificate that the imported consignment is of Shea Butter Ultra Refined of edible grade. Thus, on the basis of this certificate that the subject consignment is of refined and edible shea butter, they have claimed benefit of Notification No. 12/2012 under Sl. No. 58. The Sl. No. 58 covers the goods of Customs Tariff Heading 1515 90 91 provided they are of edible and refined grade. Since both the requirement of notification are being fulfilled by the imported consignments, therefore, we feel that the importer has rightly claimed the benefit of notification. The department have neither drawn and got the sample tested by any authorised lab to claim that the goods does not qualify to be of edible grade and of refined grade. We also feel that since the notification does not have any condition of end use, therefore even if the consignment is being used in the cosmetic industry which is of refined edible grade, the benefit of notification giving concessional rate of Customs duty cannot be denied to the appellant. The authority issuing FSSAI certification has only denied giving certificate to the importer saying that since the imported consignment are not meant for human consumption, same does not need FSSAI certificate but this stand cannot be taken to mean that goods are not of refined and edible grade.*

9. *In view of the above, we feel that importer appellant is entitled for benefit of concessional rate of Basic Customs Duty under Notification No. 12/2012, dated 17-3-2012 at S. No. 58, being consignment of Shea Butter which is of both 'refined and edible grade'. Accordingly, we find that impugned order-in-appeal is without any merits and same is set aside. In the result, appeal is allowed."*

9.2 Further, we also find that in another case involving similar disputed issue, in respect of *Inter Continental (India) (supra)*, the Hon'ble High Court of Gujarat have held that end use is not a condition and being contrary to

the notification, the CBEC Circular is not legally sustainable. The relevant paragraphs of the said order is extracted below:

> ***"11.*** *Section 151A of the Act provides for issuance of instructions to officers of Customs. The section requires that if the Board considers it necessary or expedient to issue any orders, instructions and directions to officers of Customs, it would be open to the Board to do so but the necessity or the expediency has to be for the purpose of uniformity in the classification of goods or with respect to the levy of duty on such goods. The said section further provides that all officers and other persons employed in execution of the Act shall observe and follow such orders, instructions and directions of the Board. The Act and the Tariff Act are a composite legislation - for effectuating one resort to the other is a must. The charging provision has to be read with the computation provisions as constituting an integrated code.*
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> ***12.*** *This is broadly the Scheme of the Act on the basis of which the present controversy shall have to be resolved. There is no dispute between the parties as regards classification of goods. The question that falls for determination is, once the goods are classified and the taxable event has occurred, the rate of duty is fixed statutorily and some benefit of exemption is granted by way of notification by exercising powers under Sec. 25(1) of the Act, is it possible to (i) postpone the taxable and/or (ii) to modify the levy by issuing circular in exercise of power under Sec. 151A of the Act.*
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> *xxx xxx xxx xxx*
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> ***20.*** *The impugned Circular No. 40 of 2001 in Paragraph 6(c) requires that the end-use certificate shall have to be produced by the importer from the Assistant/Deputy Commissioner of Central Excise having jurisdiction over the factories of soap manufacturers (or other industrial application for which the vegetable oil is claimed to have been used) and such certificate is produced before the customs authority within a period of three months or a period as may be extended by the Commissioner of Customs on being requested by the importer. It is further stated in the said sub-paragraph that on failure of importer to produce such certificate within a specified time-frame immediate recovery action of differential amount be initiated. The earlier paragraph i.e. sub-paragraph (b) of Paragraph 6 of the circular states that even after the report of testing of vegetable oil and finding that the consignment is not conforming to the standards prescribed under the P.F.A. Act and Rules thereunder, the provisional assessment may be made at the concessional rate of duty and the goods may be permitted to be moved on execution of bond for establishing end-use of the oil for industrial use as claimed and the bond shall cover the differential duty liability between the industrial and edible grade oil. Furthermore, depending upon whether the import is by an actual user manufacturer or trader security/bank guarantee amounting to 25% or 100%, as the case may be, of the bond value shall be taken. Mr. Patel, learned Counsel appearing on behalf of the respondents submitted in relation to this part of the circular that these safeguards have been prescribed so as to uniformly assess persons importing oils for industrial use only and to prevent misuse of imported oils being used for edible purpose after processing, on payment of concessional rate of duty. According to him, in case of a trader, if the goods are sold to 'A' and further 'A' sells those goods to 'B', 'B' to 'C', 'C' to 'D' and so on, the importer-trader shall have*

to produce the end-use certificate from the last such purchaser in the chain and the certificate shall have to be from the Assistant/Deputy Commissioner of Central Excise having jurisdiction over last such purchaser. It is beyond our comprehension as to how can a trader be expected to follow the goods which he has already sold off and which might change hands in series of transactions. To expect such an importer-trader to produce a certificate of end-use from an officer of Central Excise, having jurisdiction over the purchaser who is the last in the chain of transaction is casting a burden which if not impossible is impracticable to say the least. At least, such a requirement/condition cannot be read in Notification No. 17 by virtue of the impugned Circular No. 40 of 2001.

21. *The position in law is well settled. It is not permissible to read some additional words in a notification, much less any condition where none have been prescribed. The entire matter is governed wholly by language of the notification and in a case where the plain term of the exemption show that the tax payer falls within the same, benefit cannot be denied by relying upon supposed intention of the exempting authority. Furthermore, it is well established that in a taxing statute the meaning of a particular word as accepted by the trade and its popular meaning should be preferred and should commend to the authority because it is the condition of the article at the time of importing which is material for the purpose of classification as to under what head duty will be leviable and whether it would be exempt wholly or partly. In the case of Collector of Central Excise v. Vipul Shipyard, 1997 (10) SCC 337 various notifications have been dealt with which grant exemption from excise duty to "Ocean-going vessels". The Revenue had contended that end-use of the vessel was relevant and if the vessels were used within inland waters as barges they were liable to levy of duty. The Apex Court held that at the point of time when the vessels were built the liability to excise duty arose, and at that time vessels were "ocean-going vessels" and that subsequently if they were used in inland waters is of no consequence.*

22. *It is well established in law that the circulars issued by the Board may bind the officers of the department yet the position would be different with regard to an assessee who is always entitled to contest the validity or legality of such instructions.*

23. *We, therefore, hold that the impugned Circular No. 40 of 2001-Cus., dated 13-7-2001, Exhibit "A" is contrary to Notification No. 17 of 2001-Cus., dated 1-3-2001 and cannot override the said notification. As a consequence the impugned Circular No. 40 of 2001-Cus., dated 13-7-2001, Exhibit "A" as well as impugned order dated 20-7-2001, Exhibit "R" are quashed and set aside. The respondents are directed to forthwith assess the goods covered by bill of entry dated 28-3-2000, Exhibit "C" and goods covered by consignments listed in Exhibit "H" in terms of Entry No. 29 of Table annexed to the Notification No. 17 of 2001, dated 1-3-2001 and further cancel the bonds executed by the petitioners and release the bank guarantees furnished by the petitioners at the time of provisional release of the said goods."*

10. On being dissatisfied with the aforesaid order, the department had filed Civil Appeal No.6529 of 2002 before the Hon'ble Supreme Court, and while disposing the case it was held that a new condition to the notification cannot restrict the scope of the exemption already provided in the notification in order to whittle it down. Therefore, the Hon'ble Supreme Court dismissed the appeal filed by the department, by upholding the order of the Hon'ble High Court vide its judgement dated 23.04.2008.

11. In view of the foregoing discussions and analysis, we are of the considered view that the impugned order dated 31.07.2024 is proper and legal and requires no interference insofar it has extended the customs duty exemption under Sl. No. 64 and 71 of Notification No.50/2017-Customs dated 30.06.2017 to the goods imported by the respondent importer, as discussed in detail vide preceding paragraphs 8.1 to 8.4 of this order.

12. In the result, the appeal filed by the Revenue is dismissed.

(Order pronounced in the open court on 01.06.2026)

(M.M. Parthiban)
Member (Technical)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

Sinha