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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Order reserved on: 04.08.2026***
Order pronounced on: 13.08.2026
Order uploaded on: 13.08.2026

\# **CNR No. DLHC010102982026**

\+ CUSAA 18/2026, CM APPL. 16524/2026 and CM APPL. 16525/2026

SENIOR INDIA PVT LTD .....Appellant

Through: Mr. Yogendra Aldak, Mr. Agrim Arora, Ms. Sonakshi Pandey, Advs.

versus

COMMISSIONER OF CUSTOMS, AIR CARGO COMPLEX (IMPORT) .....Respondent

Through: Mr. Gibran Naushad, SSC with Mr. Suraj Shekhar Singh, Mr. Hasan Haider, Mr. Anish Mishra, Advs.

\# **CNR No. DLHC010102992026**

\+ CUSAA 19/2026, CM APPL. 16526/2026 and CM APPL. 16527/2026

SENIOR INDIA PVT LTD .....Appellant

Through: Mr. Yogendra Aldak, Mr. Agrim Arora, Ms. Sonakshi Pandey, Advs.

versus

COMMISSIONER OF CUSTOMS, AIR CARGO COMPLEX (IMPORT) .....Respondent

Through: Mr. Gibran Naushad, SSC with Mr. Suraj Shekhar Singh, Mr. Hasan Haider, Mr. Anish Mishra, Advs.

\# **CNR No. DLHC010103002026**

\+ CUSAA 20/2026, CM APPL. 16529/2026 and CM APPL. 16530/2026

SENIOR INDIA PVT LTD .....Appellant

Through: Mr. Yogendra Aldak, Mr. Agrim Arora, Ms. Sonakshi Pandey, Advs.

versus

COMMISSIONER OF CUSTOMS, AIR CARGO COMPLEX (IMPORT) .....Respondent

Through: Mr. Gibran Naushad, SSC with Mr. Suraj Shekhar Singh, Mr. Hasan Haider, Mr. Anish Mishra, Advs.

\# **CNR No. DLHC010100472026**

\+ CUSAA 21/2026, CM APPL. 16532/2026 and CM APPL. 16533/2026

SENIOR INDIA PVT LTD .....Appellant

Through: Mr. Yogendra Aldak, Mr. Agrim Arora, Ms. Sonakshi Pandey, Advs.

versus

COMMISSIONER OF CUSTOMS, AIR CARGO COMPLEX (IMPORT) .....Respondent

Through: Mr. Gibran Naushad, SSC with Mr. Suraj Shekhar Singh, Mr. Hasan Haider, Mr. Anish Mishra, Advs.

\# **CNR No. DLHC010100512026**

\+ CUSAA 22/2026, CM APPL. 16534/2026 and CM APPL. 16535/2026

SENIOR INDIA PVT LTD .....Appellant

Through: Mr. Yogendra Aldak, Mr. Agrim Arora, Ms. Sonakshi Pandey, Advs.

versus

COMMISSIONER OF CUSTOMS, AIR CARGO COMPLEX (IMPORT) .....Respondent

Through: Mr. Gibran Naushad, SSC with Mr. Suraj Shekhar Singh, Mr. Hasan Haider, Mr. Anish Mishra, Advs.

CNR No. DLHC010100942026

\+ CUSAA 23/2026, CM APPL. 16536/2026 and CM APPL. 16537/2026

SENIOR INDIA PVT LTD .....Appellant

Through: Mr. Yogendra Aldak, Mr. Agrim Arora, Ms. Sonakshi Pandey, Advs.

versus

COMMISSIONER OF CUSTOMS, AIR CARGO COMPLEX (IMPORT) .....Respondent

Through: Mr. Gibran Naushad, SSC with Mr. Suraj Shekhar Singh, Mr. Hasan Haider, Mr. Anish Mishra, Advs.

CNR No. DLHC010101582026

\+ CUSAA 24/2026, CM APPL. 16538/2026 and CM APPL. 16539/2026

SENIOR INDIA PVT LTD .....Appellant

Through: Mr. Yogendra Aldak, Mr. Agrim Arora, Ms. Sonakshi Pandey, Advs.

versus

COMMISSIONER OF CUSTOMS, AIR CARGO COMPLEX (IMPORT) .....Respondent

Through: Mr. Gibran Naushad, SSC with Mr. Suraj Shekhar Singh, Mr. Hasan Haider, Mr. Anish Mishra, Advs.

CNR No. DLHC010100952026

\+ CUSAA 25/2026, CM APPL. 16540/2026 and CM APPL. 16541/2026

SENIOR INDIA PVT LTD .....Appellant

Through: Mr. Yogendra Aldak, Mr. Agrim Arora, Ms. Sonakshi Pandey, Advs.

versus

COMMISSIONER OF CUSTOMS, AIR CARGO COMPLEX (IMPORT) .....Respondent

Through: Mr. Gibran Naushad, SSC with Mr. Suraj Shekhar Singh, Mr. Hasan Haider, Mr. Anish Mishra, Advs.

\# **CNR No. DLHC010100962026**

\+ CUSAA 26/2026, CM APPL. 16542/2026 and CM APPL. 16543/2026

SENIOR INDIA PVT LTD .....Appellant

Through: Mr. Yogendra Aldak, Mr. Agrim Arora, Ms. Sonakshi Pandey, Advs.

versus

COMMISSIONER OF CUSTOMS, AIR CARGO COMPLEX (IMPORT) .....Respondent

Through: Mr. Gibran Naushad, SSC with Mr. Suraj Shekhar Singh, Mr. Hasan Haider, Mr. Anish Mishra, Advs.

\# **CNR No. DLHC010100642026**

\+ CUSAA 27/2026, CM APPL. 16874/2026 and CM APPL. 16875/2026

SENIOR INDIA PVT LTD .....Appellant

Through: Mr. Yogendra Aldak, Mr. Agrim Arora, Ms. Sonakshi Pandey, Advs.

versus

COMMISSIONER OF CUSTOMS, AIR CARGO COMPLEX (IMPORT) .....Respondent

Through: Mr. Gibran Naushad, SSC with Mr. Suraj Shekhar Singh, Mr.

Hasan Haider, Mr. Anish Mishra, Advs.

CNR No. DLHC010100652026

\+ CUSAA 28/2026, CM APPL. 16877/2026 and CM APPL. 16878/2026

SENIOR INDIA PVT LTD .....Appellant

Through: Mr. Yogendra Aldak, Mr. Agrim Arora, Ms. Sonakshi Pandey, Advs.

versus

COMMISSIONER OF CUSTOMS, AIR CARGO COMPLEX (IMPORT) .....Respondent

Through: Mr. Gibran Naushad, SSC with Mr. Suraj Shekhar Singh, Mr. Hasan Haider, Mr. Anish Mishra, Advs.

CNR No. DLHC010104662026

\+ CUSAA 29/2026, CM APPL. 17051/2026 and CM APPL. 17052/2026

SENIOR INDIA PVT LTD .....Appellant

Through: Mr. Yogendra Aldak, Mr. Agrim Arora, Ms. Sonakshi Pandey, Advs.

versus

COMMISSIONER OF CUSTOMS, AIR CARGO COMPLEX (IMPORT) .....Respondent

Through: Mr. Gibran Naushad, SSC with Mr. Suraj Shekhar Singh, Mr. Hasan Haider, Mr. Anish Mishra, Advs.

CNR No. DLHC010104172026

\+ CUSAA 30/2026, CM APPL. 17056/2026 and CM APPL. 17057/2026

SENIOR INDIA PVT LTD .....Appellant

Through: Mr. Yogendra Aldak, Mr. Agrim Arora, Ms. Sonakshi Pandey, Advs.

versus

COMMISSIONER OF CUSTOMS, AIR CARGO COMPLEX (IMPORT) .....Respondent

Through: Mr. Gibran Naushad, SSC with Mr. Suraj Shekhar Singh, Mr. Hasan Haider, Mr. Anish Mishra, Advs.

CNR No. DLHC010104672026

\+ CUSAA 31/2026, CM APPL. 17179/2026 and CM APPL. 17180/2026

SENIOR INDIA PVT LTD .....Appellant

Through: Mr. Yogendra Aldak, Mr. Agrim Arora, Ms. Sonakshi Pandey, Advs.

versus

COMMISSIONER OF CUSTOMS, AIR CARGO COMPLEX (IMPORT) .....Respondent

Through: Mr. Gibran Naushad, SSC with Mr. Suraj Shekhar Singh, Mr. Hasan Haider, Mr. Anish Mishra, Advs.

CNR No. DLHC010339712026

\+ CUSAA 75/2026, CM APPL. 49042/2026 and CM APPL. 49043/2026

SENIOR INDIA PVT. LTD .....Appellant

Through: Mr. Yogendra Aldak, Mr. Agrim Arora, Ms. Sonakshi Pandey, Advs.

versus

COMMISSIONER OF CUSTOMS, AIR CARGO COMPLEX (IMPORT), ...Respondent

Through: Mr. Gibran Naushad, SSC with Mr. Suraj Shekhar Singh, Mr.

Hasan Haider, Mr. Anish Mishra, Advs.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MS. JUSTICE SHAIL JAIN

O R D E R

ANIL KSHETARPAL, J.:

1. The present batch of fifteen Appeals has been preferred by the Appellant under Section 130 of the Customs Act, 1962 [hereinafter referred to as 'Customs Act'], assailing orders passed by the Customs, Excise and Service Tax Appellate Tribunal [hereinafter referred to as 'CESTAT']. Fourteen Appeals arise from Final Order Nos. 59757-59770/2024 dated 13.11.2024, as modified by Miscellaneous Order Nos. 50837-50850/2025 dated 22.08.2025. CUSAA 75/2026 arises from Final Order No. 50017/2026 dated 07.01.2026.

2. While issuing notice, this Court confined consideration of the Appeals to the following question of law:

> *"Whether the authorities below, including the CESTAT, were justified in ignoring/overlooking the Appellant's claim that the benefit under Section 14 of the Limitation Act, 1963 was available to it in the wake of the judgment of the Supreme Court in **ITC Limited v. Commissioner of Central Excise, Kolkata-IV**[1]**."***

3. CUSAA 28/2026 stands on a different factual premise. The undisputed dates pertaining to that Appeal give rise to the following additional substantial question of law:

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[1] (2019) 17 SCC 46

> *"Whether the CESTAT was justified in law in dismissing Customs Appeal No. 52100/2022 as barred by limitation, when the underlying Appeal No. 139/2019 had been filed within the period prescribed under Section 128 of the Customs Act."*

4. This Court has examined and perused the record in these Appeals. The material dates that emerge from documents and are not in dispute. What remains is their legal effect. No useful purpose would, therefore, be served by remitting the issue of limitation for another round of consideration.

5. The controversy originated from the classification of pressure relief valves imported by the Appellant. The goods had earlier been cleared under Customs Tariff Item *('CTI')* 8481 40 00. From September 2018 onwards, the Appellant declared the goods under CTI 8409 99 41 and paid duty at a higher rate, allegedly upon the insistence of the Customs Authorities. Fourteen Bills of Entry were assessed between September 2018 and February 2019. Two further Bills of Entry were filed on 15.03.2019 and 06.05.2019.

6. The legal position prevailing when these assessments were made is material. In ***Aman Medical Products Limited v. Commissioner of Customs, Delhi***[2], this Court held that where there was no *lis* or adversarial assessment, failure to appeal against the assessed Bill of Entry did not preclude the importer from maintaining a refund claim under Section 27 of the Customs Act. Thereafter, in ***Micromax Informatics Limited v. Union of India***[3], this Court held, while construing Section 27 of the Customs Act as amended with

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[2] 2010 (250) E.L.T. 30 (Del.)
[3] 2016 (335) E.L.T. 446 (Del.)

effect from 08.04.2011, that a refund claim was required to be entertained even if the assessment had not previously been reviewed or modified in appeal. These decisions constituted the binding jurisdictional position at the relevant time.

7. Relying upon the aforesaid position, the Appellant filed two refund applications on 26.08.2019, within the period of one year prescribed under Section 27. Refund File No. 285 pertained to the two later Bills of Entry, whereas Refund File No. 286 pertained to the remaining fourteen Bills of Entry. Deficiency memoranda dated 05.09.2019 and 12.09.2019 were thereafter issued in the respective files pointing out certain documentary and computational deficiencies.

8. While the refund proceedings were pending, the Supreme Court rendered its decision in ***ITC Limited*** *(supra)* on 18.09.2019. It held that a refund claim could not be entertained unless the assessment or self-assessment was first modified in an Appeal under Section 128 or under any other provision of the Customs Act. The procedural premise upon which the Appellant had invoked Section 27 thus ceased to be sufficient.

9. Within six days of the decision in ***ITC Limited*** *(supra)*, the Appellant filed an application dated 24.09.2019 under Section 149 of the Customs Act, seeking amendment of the fourteen Bills of Entry. The application is stated to remain pending. The Appellant also responded to the deficiency memoranda and requested that the refund proceedings be kept in abeyance pending the statutory proceedings for modification of the assessments.

10. By letter dated 08.05.2020, received by the Appellant on 02.06.2020, the Refund Authority rejected the claim in File No. 285 as premature for want of reassessed Bills of Entry. No corresponding order was passed in File No. 286. The Appellant thereafter filed Appeal Nos. 728-741/2020 under Section 128 on 31.08.2020, accompanied by applications seeking exclusion, on the principles underlying Section 14 of the Limitation Act, of the period during which the refund remedy had been pursued.

11. By the common Order-in-Appeal dated 05.05.2022, the Commissioner (Appeals) rejected those fourteen Appeals as barred by limitation. The claim under Section 14 was rejected principally on the premise that the refund application dated 26.08.2019 concerned only two Bills of Entry. That premise was factually incorrect. Refund File No. 286 concerned the fourteen Bills of Entry, and a deficiency memorandum had also been issued in that file.

12. The CESTAT did not correct the error. Its Final Order dated 13.11.2024 initially proceeded upon a supposed concession by learned counsel for the Appellant that the Appeals were barred by limitation. Although the recital was corrected by the Miscellaneous Order dated 22.08.2025, the dismissal was retained without an independent examination of the Section 14 applications. Final Order No. 50017/2026 dated 07.01.2026 similarly relied upon the CESTAT decision in ***Vishal Video and Appliances Private Limited vs. Commissioner of Customs (Final Order No. 55859-55891/2024)***, even though that decision had been reversed by this Court on 24.01.2025.

13. In ***M.P. Steel Corporation v. Commissioner of Central Excise***[4], the Supreme Court held that the Limitation Act, including Section 14 thereof, does not apply *proprio vigore* to an appeal before the Commissioner (Appeals). It nevertheless held that the principles underlying Section 14 apply to an Appeal under Section 128 of the Customs Act. Thus, the period spent *bona fide* and with due diligence in pursuing a proceeding which proves abortive, on account of a defect of jurisdiction or other cause of a like nature and without an adjudication on merits, may be excluded. Since exclusion removes a qualifying period from the computation of limitation, as distinct from extending or condoning delay, the statutory ceiling upon the power of condonation does not preclude such exclusion. After the qualifying period is excluded, however, the Appeal must still fall within the period of limitation otherwise applicable.

14. The Supreme Court further held that, where the abortive proceeding is appellate or revisional, the period between the accrual of the cause of action for that proceeding and its institution may also be excluded. Where the abortive proceeding is itself an original proceeding, however, the period preceding its institution cannot be excluded. Section 14 only places the litigant in the same position as if the abortive proceeding had never taken place, it does not confer a fresh period of limitation.

15. In the present cases, Refund File No. 286 was in the nature of an original proceeding instituted on 26.08.2019. Consequently, ***M.P. Steel Corporation*** *(supra)*, by itself, would not support exclusion of

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[4] (2015) 7 SCC 58

the period preceding 26.08.2019 as time spent in prosecuting that refund proceeding. The Appellant's case concerning the earlier period must, therefore, be examined on the distinct ground that the binding jurisdictional law then prevailing treated a refund claim under Section 27 as an independent and sufficient remedy, and that the necessity of first obtaining modification of the self-assessments was authoritatively declared subsequently in ***ITC Limited*** *(supra).*

16. During the relevant period, the Appellant invoked the remedy under Section 27 within the limitation prescribed for it. Within six days of the decision in ***ITC Limited*** *(supra)*, it invoked Section 149 of the Customs Act. It also responded to the deficiency memoranda and requested that the refund proceedings be kept in abeyance pending modification of the assessments. Its conduct, therefore, discloses neither negligence nor inaction.

17. In CUSAA 2/2025 and connected Appeals, captioned ***Vishal Video and Appliances Private Limited v. Commissioner of Customs, ACC (Import)*** decided on 24.01.2025, a Coordinate Bench considered the effect of ***ITC Limited*** *(supra)* upon refund proceedings instituted under the legal position prevailing before that decision. This Court is conscious that, in ***Vishal Video*** *(supra)*, the refund had earlier been allowed by this Court and the issue of delay between the Bills of Entry and the refund applications had not been raised in the earlier round of litigation and had, therefore, attained finality. That feature is absent in the present cases.

18. That, however, was not the sole basis of the decision. The Coordinate Bench also held that the fundamental basis upon which the refund remedy had been pursued stood altered by ***ITC Limited*** *(supra)* and, on that ground, extended the benefit of Section 14. It is this latter reasoning which applies to the present cases.

19. The absence of a formal rejection order in Refund File No. 286 does not lead to a different conclusion. After ***ITC Limited*** *(supra),* that refund proceeding could not, by itself, culminate in the grant of refund without modification of the self-assessments. The Appellant's request that File No. 286 be kept in abeyance pending its application under Section 149 also reflects the same position. The rejection received on 02.06.2020 in File No. 285 formally crystallised the identical legal impediment. Insistence upon another order reiterating that position would elevate form over substance.

20. On a cumulative consideration of these circumstances, the period preceding 26.08.2019 is not being excluded merely as time spent in prosecuting an original refund proceeding. Rather, in terms of the reasoning in ***Vishal Video*** *(supra),* that period cannot be treated as ordinary inaction because the Appellant was then entitled, under the binding jurisdictional law, to invoke Section 27 as an independent remedy. The period thereafter, during which the Appellant pursued the refund remedy and invoked Section 149, is liable to be excluded, on the principles underlying Section 14, up to 02.06.2020. For the limited purpose of the peculiar facts of these cases, limitation is consequently required to be computed from 02.06.2020.

21. There is an additional statutory consideration. Upon exclusion of the period up to 02.06.2020, the initial period of sixty days under Section 128 would have expired on 01.08.2020. That date fell within the period covered by Section 6 of the ***Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020***, read with *Notification G.S.R. 601(E) dated 30.09.2020*.

22. The Notification specified 30.12.2020 as the end of the covered period and extended the time for completion or compliance to 31.12.2020. Section 128 of the Customs Act was not among the provisions excluded from its operation. Appeal Nos. 728-741/2020, filed on 31.08.2020, were therefore within the statutorily extended period. The question of condoning any further delay does not arise.

23. The principal question of law is accordingly answered in favour of the Appellant. In the peculiar transition occasioned by the decision in ***ITC Limited*** *(supra)*, the authorities below were not justified in declining the benefit of the principles underlying Section 14. For purposes of Appeal Nos. Appeal Nos. 728-741/2020 are consequently held to have been filed within limitation.

24. In CUSAA 28/2026, the position is simpler. The underlying Appeal No. 139/2019 was filed on 06.06.2019 against the assessment of Bill of Entry No. 3119681 dated 06.05.2019, which was given out-of-charge on 09.05.2019. The Appeal was filed within twenty-eight days and was *ex facie* within the period prescribed under Section 128 of the Customs Act. Its dismissal by the CESTAT as barred by

limitation was manifestly erroneous. The additional substantial question of law is also answered in favour of the Appellant.

25. It has also been brought to the notice of this Court that, by Final Order No. 50018/2026 dated 07.01.2026 in Customs Appeal No. 52091/2022, the CESTAT has decided the classification of the same pressure relief valves under CTI 8481 40 00. That order is not under challenge in the present batch of Appeals. This Court, therefore, expresses no opinion upon the classification or upon the finality of that decision. The parties shall remain at liberty to address its applicability before the respective appellate authorities.

26. Consequently, Final Order Nos. 59757-59770/2024 dated 13.11.2024, as modified by Miscellaneous Order Nos. 50837-50850/2025 dated 22.08.2025, and Final Order No. 50017/2026 dated 07.01.2026 are set aside insofar as they concern the present Appeals. The Order-in-Appeal dated 05.05.2022 is also set aside insofar as Appeal Nos. 728-741/2020 were rejected on the ground of limitation.

27. Since the Commissioner (Appeals) did not examine Appeal Nos. 728-741/2020 on merits, those Appeals are restored to the file of the Commissioner of Customs (Appeals). The Commissioner (Appeals) shall decide them on merits, without reopening the question of limitation and after affording an opportunity of hearing to the parties.

28. Insofar as CUSAA 28/2026 is concerned, Appeal No. 139/2019 had already been decided on merits by the Commissioner (Appeals).

Customs Appeal No. 52100/2022 is, therefore, restored to the file of the CESTAT for adjudication on merits.

29. The Appellant shall place a certified copy of this order before the respective appellate authorities within two weeks. The restored Appeals shall be decided, as far as practicable, within four months thereafter. Refund File No. 286 and the application under Section 149 shall be dealt with in accordance with the final determination of the restored Appeals.

30. The present Appeals are allowed in the aforesaid terms. All pending applications are disposed of.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

AUGUST 13, 2026
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