ARUNA SANDEEP TALWALKAR
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.5110 OF 2026

Asahi India Glass Ltd. … Petitioner
Versus
Deputy Commissioner Of Customs
Group III and Anr. … Respondents

Mr. Balbir Singh, Senior Advocate, a/w. Jitendra Singh, Mr. Anshuman Sahni, Mr. Rahul Gupta, i/b. Amir Arsiwala, Advocate for the Petitioner.
Ms. Maya Majumdar a/w. Ms. Megha Bajoria a/w. Ms. Khushi P. Agarwal, Advocate for Respondents.

CORAM : M. S. KARNIK &
SANDESH D. PATIL, JJ.

DATE : 28th OCTOBER, 2026

ORAL ORDER (Per M.S. Karnik, J) :

1. We have heard Mr. Balbir Singh, learned Senior Advocate appearing for the Petitioner and Ms. Maya Majumdar, learned Advocate for the Respondents.

2. By the present Petition filed under Article 226 of the Constitution of India, the Petitioner challenges the order dated 15/10/2025 passed by the Deputy Commissioner of Customs, Group III, NS-III, JNCH, Nhava Sheva. The submission of the learned Senior Advocate is that the same has been issued without

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jurisdiction, beyond the statutory period prescribed under Section 17(5) of the Customs Act, 1962, and in violation of binding precedents of the Hon'ble Madras High Court and the CESTAT.

3. The Petitioner is a leading manufacturer of processed glass, is seeking quashing of the impugned order, refund of Rs. 1,30,56,684.20/- illegally appropriated and a direction to the Respondents to follow the settled classification of the imported goods under CTH 7005 10 in accordance with law. It is the submission of the learned Senior Advocate that continued withholding of over Rs. 1.3 crore and non-clearance of consignments are disrupting the Petitioner's supply chain to automotive OEMs, who have contractual penalty clauses for delayed deliveries. It is the further submission of learned Senior Advocate that the Respondents continue to act contrary to the law settled in the Petitioner's own earlier cases, resulting in ongoing financial prejudice and violation of statutory rights under the Customs Act, 1962.

4. We have heard Ms. Majumdar, learned Counsel for the Respondents, who opposed the reliefs claimed in the Petition. Our attention is invited to the impugned order. It is submitted that the

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Deputy Commissioner of Customs has passed the impugned order in accordance with provisions of law which does not warrant any interference in the exercise of writ jurisdiction of this Court. It is the submission of the learned Counsel for the Respondents that every import is case-specific and therefore, the classification can be varied on a case-to-case basis, a submission which we do find substance. However, in our view, if the fresh import is the same as the goods earlier classified, consistency has to be maintained, more so when the goods have been classified on the previous occasion by the Superior Authority.

5. Without going into the contentions in detail, suffice it to observe that the impugned order held that the fifteen-day time limit prescribed under Section 17(5) of the Customs Act, 1962, is directory and not mandatory. Section 17(5) of the Customs Act, 1962 reads thus :

> "17(5) Where any assessment done under sub-section (2) is contrary to the claim of the importer or exporter [*] [Inserted by Act 29 of 2006, Section 20 (w.e.f. 13.7.2006).], and in cases other than those where the importer or the exporter, as the case may be, confirms his acceptance of the said assessment in writing, the proper officer shall pass a speaking order within fifteen days from the date of assessment of the bill of entry or the shipping bill, as the case may be.]"

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6. To answer the controversy, reference to paragraph Nos. 4.7 and 5.3. of the impugned order is relevant. The same needs to be extracted, which reads thus :

> "4.7 Judicial authorities, including *CC v. Jindal Stainless Ltd.* [2021 (378) ELT 385 (Tri.-Del.)) and *CC v. Trimurti Exports* [2020 (373) ELT 385], have held that Section 17(5) is directory in nature and not mandatory. Accordingly, any delay in issuance of a speaking order does not vitiate the re-assessment, particularly in the absence of demonstrated prejudice.
>
> 5.3 The fifteen-day time limit prescribed under Section 17(5) of the Customs Act, 1962, directory and not mandatory, as settled in *M.M. Rubber Co. (1991 (55) ELT 289 (SC) Topline Shoes Lad*. [(2002) 6 SCC 33], *State of Punjab v. ShamlalMurari* [AIR 1976 SC 1177], *Gokul Agro Resources Ltd.* [2022 (380) ELT 433 (Tri.-Ahd.)], and *Century Metal Recycling Pvt. Ltd*. [2021 (376) ELT 472 (Tri.-Mum.)]."

7. Thus, we find the basis for passing the impugned order is reliance on the decisions which are cited in paragraph Nos. 4.7 and 5.3 of the impugned order. The learned Senior Advocate invited our attention to the affidavit in reply filed by the Respondents. In paragraph 25 (b) of the affidavit in reply it is clearly stated that citations which are at paragraph Nos. 4.7 and 5.3 could not be traced in the form and citation given. It is stated in the affidavit in reply that the Respondents do not rely on them and profusely regret the error.

8. Thus, it is obvious that the impugned order was passed

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relying on the aforesaid decisions which error is now regretted. At this juncture, we rely on the decision of the Hon'ble Supreme Court in Vijay Ghanshyam Gadiya V/s. Union of India[1] decided on 2nd September 2026 which is significant. Their Lordships, in paragraphs 5 to 8 have observed thus :

> *5. Such a discovery compels us to refer to the decision of this Court in Pooja Ramesh Singh v. Jammu & Kashmir Bank Ltd.4. It happens to be a precedent dealing with the use of AI in judgments. Excerpts therefrom read:*
>
> > *"7. It is necessary for courts to adopt a zero-tolerance mode for producing, citing or using artificial intelligence-generated precedents without verification. It is a misconduct on the part of an advocate to cite such judgments without verification. Equally, it is a serious lapse if a judge relies on such a fake or hallucinated artificial intelligence-generated material as precedents in support of the determination. We have no hesitation in declaring that such a decision is no decision in the eyes of the law, irrespective of whether such material had a direct or indirect bearing on the decision-making. Such decisions are to be set aside even if an iota of fake or hallucinated material enters the decision-making process, as it would violate the sanctity of adjudication. It is absolutely necessary to maintain integrity in decision page making, and we reiterate and declare zero tolerance for the Bar as well as the Bench to cite, refer to, or rely on such material. It is also clarified that our judgment shall have no bearing on the rightful use of artificial intelligence, but on the presentation or reliance on fake or hallucinated material as if it were a court precedent."*
>
> *6. At this juncture, we may also add a comment on the use of Artificial Intelligence in adjudicatory processes. While this*

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> *issue incidentally falls upon us to be considered, use of AI in the process of adjudication is not foreign. Quite the contrary, this Court has recently released draft Regulations for Use of Artificial Intelligence in Courts, 2026, calling for comments and suggestions. Notwithstanding that the regulations are yet to be finalised, use of AI as an assistive tool to speed up the decision-making process cannot be denied. However, a note of caution must be sounded: assistance can never be substituted for adjudication. AI may well serve as training wheels but entrusting it with the pilot's seat would be both imprudent and dangerous.*
>
> *7. The use of AI in this case, resulting in reliance placed by the second respondent on material which is dubious, proves fatal to the sustainability of the order imposing penalty on the appellant. Such circumstances compel us to interfere and remand the case. Learned Additional Solicitor General has not joined issue.*
>
> *8. For the foregoing reasons, the impugned order of the High Court confirming the penalty is consequently set aside together with the Order-in-Original, with the result that the proceedings against the appellant before the second respondent shall stand revived for being decided afresh by an officer of the same rank other than the one who passed the order dated 8th October, 2025.*

9. Drawing support from the observations made in the aforesaid decision, we have no hesitation in setting aside the impugned order.

10. The next contention of the learned Senior Advocate is that the issue of classification is settled by the Committee of Commissioner of Customs. Reliance is placed on the copy of the communication dated 13/01/2023 which is addressed by the Joint

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Commissioner to the Petitioner. The communication reads thus :

> **"OFFICE OF THE JOINT COMMISSIONER OF CUSTOMS (In-situ)**
> **ICD GARHI HARSARH, GURGAON, HARYANA**
>
> F.No.Vin/ICD-R^Asahi/WFG/17/18-19/nb Date: 13.01.2023
>
> To.
> M/s. Asahi India Glass Ltd.
> 3 and 11 floor, Global Business Park,
> Tower-D. M.G. Road, Gurugram-122002.
>
> Gentleman,
>
> Subject: Acceptance Letter for Order-In Appeal No. CC(A)/Cus/D- II/ICD/PPG/861-863/2022-23 dated 20.07.2022-reg.
>
> Please refer to the above mentioned subject. In this regard, it is informed that Order-in-Appeal No. CC(A)/Cus/D4HCDTK-863/2022-23 date 20.07.2022 issued vide F.No. CC(A)/DLH/Cus/ICD-PPG/715/2021 & Ors. has been accepted by the Committee of Commissioners of Customs.
>
> The Commissioner of Customs (Appeals) vide above mentioned Order-in-Appeal has ordered for classification of impugned goods under CTH 70051010 along with application of notification no. 46/2011-cus dated 01.06.2011 (Sl. No. 934). In compliance with the above said Order-in-Appcal, the process of Re-Call and Re-assessment of Bills of Entry is being carried out by this office.
>
> This is for your kind information please.
>
> Sd/-
> (HARSH MNGH)
> JC (In-situ), ICD Garhi Harsaru,
> Gurgaon, Haryana"

11. We thus find that for the very same goods imported earlier, the classification is made as CTH 7005010. In such view of the matter, the order passed by the Committee of Commissioners

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will have an important bearing when it comes to deciding the issue of classification, especially as the Authority that decided that the classification is superior to that of the present Adjudicating Authority. The said aspect needs to be taken into consideration by the Deputy Commissioner while adjudicating the show cause notice.

12. We therefore have no hesitation in setting aside the impugned order. The Writ Petition is allowed in terms of prayer clause (a).

13. The show cause is remitted to the Deputy Commissioner for fresh adjudication in accordance with law. The Petitioner to appear before the Deputy Commissioner on 4th November, 2026 at 11 a.m. Show cause notice to be adjudicated expeditiously preferably within a period of 4 weeks from 4th November, 2026 after giving an opportunity of personal hearing to the Petitioner.

14. It is made clear that the issue of jurisdiction to issue the show cause notice is expressly kept open.

(SANDESH D. PATIL, J.) (M. S. KARNIK, J.)

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