

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH - COURT NO.2**

Customs Appeal No.76038 of 2023

(Arising out of Order-in-Appeal No.KOL/CUS(CCP)/KS/708/2023 dated 18.09.2023
passed by Commissioner of Customs (Appeals), Kolkata.)

M/s. MRK Impex Private Limited
(8/35, South Patel Nagar, New Delhi-110008.)

...Appellant

VERSUS

Commissioner of Customs (Prev.), West Bengal, Kolkata

.....Respondent

(15/1, Strand Road, Custom House, Kolkata-700001.)

APPEARANCE

Shri H.K.Pandey, Advocate for the Appellant (s)

Shri A.K. Choudhary, Authorized Representative for the Revenue

**CORAM: HON'BLE SHRI R. MURALIDHAR, MEMBER(JUDICIAL)
HON'BLE SHRI RAJEEV TANDON, MEMBER(TECHNICAL)**

FINAL ORDER NO. 75085/2026

DATE OF HEARING : 12.01.2026
DATE OF DECISION : 20.01.2026

Per : RAJEEV TANDON :

The appellant herein is a manufacturer of iron & steel items and for the purpose of manufacturing, amongst others is also an importer of iron & steel shaft and crank shaft pieces (obtained from ship breaking). The said product was classified at the time of clearance under CTH 73269080, imported vide Bill of Entry No.7119217 dated 07.07.2018. The said import consignment was duly assessed as declared after

customs examination and allowing them the benefit of the SAFTA Certificate.

2. The Revenue vide show cause notice dated 10.09.2020 however called upon the appellant for classification of the product under CTH 8483 1092 attracting IGST @ 28%, seeking to recover the same along with interest and imposition of penalty on the appellant.

3. During the course of litigation proceedings in the matter, the appellant has contended that the imported goods being different/broken portions of shaft recovered on ship breaking, cut into varying lengths were no longer shaft as classifiable under HSN 8483 1092 and rightly merited classification under the CTH 7326 9080 as declared in the Bill of Entry and subsequently assessed by the department after conducting proper examination of the said goods. For ready reference the heading 7326 and 8483 are enumerated hereunder:-

| | | | |
|------------|--|-----|-----|
| 7326 | Other articles of iron or steel | kg. | 10% |
| | - Forged or stamped, but not further worked : | | |
| 7326 11 00 | --- Grinding balls and similar articles for mills | kg. | 10% |
| 7326 19 | --- Other : | | |
| 7326 19 10 | --- For automobiles and earth moving equipments. | kg. | 10% |
| 7326 19 90 | --- Other | kg. | 10% |
| 7326 20 | - Articles of iron or steel wire : | | |
| 7326 20 10 | --- Tyre bead wire rings intended for use in the manufacture of tyres for cycles and cycle-rickshaws | kg. | 10% |
| 7326 20 90 | --- Other | kg. | 10% |
| 7326 90 | - Other : | | |
| 7326 90 10 | --- Belt lacing of steel | kg. | 10% |
| 7326 90 20 | --- Belt fasteners for machinery belts | kg. | 10% |
| 7326 90 30 | --- Drain covers, plates, and frames for sewages, water or similar system | kg. | 10% |
| 7326 90 40 | --- Enamelled iron ware | kg. | 10% |
| 7326 90 50 | --- Grinding media balls and cylpebs | kg. | 10% |
| 7326 90 60 | --- Manufactures of stainless steel. | kg. | 10% |
| 7326 90 70 | --- Articles of clad metal. | kg. | 10% |
| 7326 90 80 | --- Parts of ships, floating structure and vessels (excluding hull, propellers and paddle-wheels) | kg. | 10% |
| 7326 90 91 | --- Other : | | |
| | ---- Shanks | kg. | 10% |

| | | | |
|------------|---|-----|------|
| 8482 99 00 | -- Other | | |
| 8483 | Transmission shafts (including cam shafts and crank shafts) and cranks; bearing housings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints) | | |
| 8483 10 | - Transmission shafts (including cam shafts and crank shafts) and cranks : | u | 7.5% |
| 8483 10 10 | --- Crank shafts for sewing machines | u | 7.5% |
| | --- Other : | | |
| 8483 10 91 | ---- Crank shaft for engines of heading 8407 | u | 7.5% |
| 8483 10 92 | ---- Crank shaft for engines of heading 8408 | u | 7.5% |
| 8483 10 99 | ---- Other | u | 7.5% |
| 8483 20 00 | - Bearing housings, incorporating ball or roller bearings | u | 7.5% |
| 8483 30 00 | - Bearing housings, not incorporating ball or roller bearings; plain shaft bearings | u | 7.5% |
| 8483 40 00 | - Gears and gearing, other than toothed wheels, chain sprockets and other transmission elements presented separately; ball or roller screws; gear boxes and other speed changers, including torque converters | u | 7.5% |
| 8483 50 | - Flywheels and pulleys, including pulley blocks | u | 7.5% |
| 8483 50 10 | --- Pulleys, power transmission. | u | 7.5% |
| 8483 50 90 | --- Other | u | 7.5% |
| 8483 60 | - Clutches and shaft couplings (including universal joints) : | | |
| 8483 60 10 | --- Flexible coupling | u | 7.5% |
| 8483 60 20 | --- Fluid coupling | u | 7.5% |
| 8483 60 90 | --- Other | u | 7.5% |
| 8483 90 00 | - Toothed wheels, chain sprockets and other transmission elements presented separately; parts | kg. | 7.5% |

3. Following due process of law, the adjudicating authority classified the goods under CTH 84831092 and called upon the appellant to pay the differential IGST along with interest apart from invoking penal provisions under section 112 and section 117 of the

Customs Act. The Revenue's contention being that the Bill of Entry was system appraised and that the appellant was required to declare correct description value, classification, notification no. etc. in the import documents. We also note that the appellant had raised the preliminary objection of limitation before the lower authorities which was plea however dismissed by the authority, seeking shelter of section 28(4) of the Customs Act and invoking the provisions thereof with regard to suppression, mis-declaration, to justify invocation of the larger period of limitation. On appeal before the first appellate authority the Ld.Commissioner(Appeals) upheld the order of the Ld.Adjudicating authority, rejecting the appeal filed. Aggrieved therewith the appeal, the appellant is now before this Tribunal.

4. We have heard the two sides and perused the case records.

5. We find from records that the commercial invoice indicated the description of imported goods as "Iron and steel Shaft (Parts of Ship) (HS Code No.7326 9090)", which goods are otherwise aptly covered under the specific description of 'parts of ship, floating structures and vessel'. We note that the heading 84031092, certainly cannot be the appropriate CTH, as it restricts itself to Crank Shafts for engines of CTH 8408 i.e. Compression-ignition internal Combustion Piston Engines (diesel or semi diesel engines), which the imported goods are certainly not.

6. It has been argued before us that the imported goods are different portions of shaft as recovered on ship breaking cut into varying lengths and are no longer recognizable as shaft as could merit classification under 8483 1092. We also note that the impugned goods in the matter were finally assessed by the authorities at the time of clearance and accordingly duty was required to be paid on the imported goods as per the assessment undertaken by the authorities. The appellant has further vehemently contended that the said order was neither reviewed nor modified in the appeal. Therefore, the said assessment would continue to remain final. In this regard they have drawn support from the hon'ble apex court in the case of **Priya Blue Industries Ltd. v. Commissioner of Customs (Prev.) [2004 (172) ELT 145 (SC)]**. It is on record that the assessment undertaken was not agitated by the Revenue during the material time. In terms of the judgement of the hon'ble apex court in the case of **ITC Ltd. v. Commissioner of Central Excise, Kolkata-IV [2019 (368) ELT 216 (SC)]**, the said assessment has attained finality and therefore the impugned show cause notice would not be sustainable.

7. The appellant has also drawn support from a recent order passed by Kolkata Customs authority, in the case of **Laxmi Metal Works v. Additional Commissioner of Customs, Appraising Group-V Customs House, Kolkata vide Order-in-Appeal No.KOL/CUS(PORT)AA/269/2019 dated 10.04.2019**, where similar goods imports have been held as classifiable under 7326 9080, in the course of the appellate proceedings and which order had attained

finality by virtue of the Tribunal's decision (Final Order No.75411/2020 dated 13.01.2020) in the case of **Commissioner of Customs (Port), Kolkata v. M/s. Laxmi Metal Works (Customs Appeal No.76658/2019-DB)**.

8. Consistency and certainty are two great hallmark of a robust legal system. The law as propounded has to be adhered to in both letter and spirit. Suspicion howsoever grave can certainly not be a substitute for sound proof. The commercial invoice as well as the SAFTA Certificate categorically mention the classification of goods under heading 73269090. The Revenue, post clearance of the imported goods have not given out a single sustainable reason for the proposed change of classification. Parts of ships, excluding those specified under heading 7326 9080, are clearly classifiable under CTH 7326 9090, in view of the specific description of goods stated therein. Moreover upon salvaging and breaking up of the ship the parts thereof loose their original identity and attain a different nomenclature and an independent identity. The goods assume a different character as an article of iron & steel, therefore, meriting classification under CTH 7326 and being a part of ship the sub-heading 7326 9080 squarely meets the description of goods; further by virtue of exclusion under CTH 7326 9080 would automatically fall under CTH 7326 9090.

9. We also note from records that there is apparently no concealment of facts or mis-representation thereof by the appellant in the matter and as such we are not in agreement with the Revenue's contention on this aspect, justifying and sustaining invocation of larger

limitation period. We are of the unequivocal view that extended period of limitation was inapplicable in the given context and the show cause notice is clearly time barred. It is also a fact that even otherwise the present matter would be one of revenue neutrality. Under the circumstances we also find no merit in the appellant attempting the alleged concealment of facts, as they were eligible to avail credit of the duty paid. Therefore, apart from what is stated above in foregoing paras, concerning the merits of the matter, it is categorical that the present case being one of revenue neutrality there obviously was no incentive to deliberately misdeclare the imported goods. The import documents as supplied by the exporter including the country of origin certificate, state the classification as CTH as 7326 9090. Moreover, in view of what is stated herein the said goods would clearly be classifiable under 7326 9090.

10. In view of the aforesaid discussions, we find the order of the lower authority as not in accordance with law and therefore the same would be required to be set aside. We therefore set aside the impugned order in its entirety and allow the appeal filed by the appellant with consequential relief, if any, as per law.

(Order pronounced in the open court on 20.01.2026.)

Sd/
(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/
(RAJEEV TANDON)
MEMBER (TECHNICAL)