

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
MUMBAI**

REGIONAL BENCH

CUSTOMS APPEAL NO. 85427 OF 2024

(Arising out of Order-in-Appeal No: 1092 to 1127(Gr. VA)/2023 (JNCH)/Appeals dated 31st October 2023 passed by the Commissioner Customs (Appeals), Mumbai-II)

**Socomec Innovative Power
Solutions P Ltd**

2.404, 4th Floor, C-Wing,
Neelkanth Business Park,
Vidhyavihar West, Mumbai

.....Appellant

versus

Commissioner of Customs (NS-V)

Jawaharlal Nehru Port Trust, Nhava Sheva
Taluka-Uran, Dist: Raigad, Maharashtra-400 707

.....Respondent

WITH

C/85428/2024	C/85429/2024	C/85430/2024	C/85431/2024
C/85432/2024	C/85433/2024	C/85434/2024	C/85435/2024
C/85436/2024	C/85437/2024	C/85438/2024	C/85439/2024
C/85440/2024	C/85441/2024	C/85442/2024	C/85443/2024
C/85444/2024	C/85445/2024	C/85446/2024	C/85447/2024
C/85448/2024	C/85449/2024	C/85450/2024	C/85451/2024
C/85452/2024	C/85453/2024	C/85454/2024	C/85455/2024
C/85456/2024	C/85457/2024	C/85458/2024	C/85459/2024
C/85460/2024	C/85461/2024	C/85462/2024	

APPEARANCE:

Mt T Vishwanathan, Mr Akhilesh Kangazia and Ms Apoorva Parhiar, Advocates for the appellant

Shri Deepak Sharma, Deputy Commissioner (AR) for the respondent

**CORAM: HON'BLE MR JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)**

**DATE OF HEARING: 22.01.2026
DATE OF DECISION: 22.01.2026**

FINAL ORDER NO's: 85041-85076/2026

JUSTICE DILIP GUPTA:

All the aforesaid 36 appeals filed by M/s Socomec Innovative Power Solutions P Ltd¹ seek to assail the common order dated 31st October 2023

1. the appellant

passed by the Commissioner of Customs (Appeals), Nhava Sheva, Mumbai-II². The Commissioner (Appeals) has dismissed all the 36 appeals after finding no infirmity in the respective assessment orders on the 36 Bills of Entry that were filed by the appellant.

2. The issue that arises for consideration in these 36 appeals is whether the appellant could have been denied exemption from payment of basic customs duty on the Uninterrupted Power Supply³ imported by the appellant in terms of the Exemption Notification.

3. It transpires that in respect of another Bill of Entry, the appellant had requested for a speaking order to be passed in respect of the UPS that were imported and against that speaking order an appeal was filed before the Commissioner of Customs (Appeals), which appeal was dismissed. However, Customs Appeal No. 85058 of 2024 was filed before the Tribunal and this appeal was allowed by order dated 14th February 2025, which decision is reported in **2025 (2) TMI 1296 –CESTAT MUMBAI**.

4. It is seen that, after the speaking order was passed, the appellant self-assessed the 36 Bills of Entry submitted subsequently for import of UPS on higher rate of duty in view of the speaking order, which speaking order, as noticed above, was set aside by the Tribunal in the decision dated 14th February 2025.

5. The Commissioner (Appeals), in the impugned order recorded the following finding to dismiss the appeals:

“7. After going through records of the case including the grounds of appeals, additional submissions of the Appellant and submissions made during the personal hearing, I note that, the subject goods can be used in

2. the Commissioner (Appeals)
3. UPS

multiple sectors viz data centers, healthcare, infrastructure, telecommunication etc. On plain reading of Notification No. 25/2005-Cus dated 01.03.2005, **it is observed that the exemption from Basic Custom Duty has been extended only to static converters which are meant for automatic data processing machine and units thereof and telecommunication apparatus other than static converters for cellular mobile phones. The argument of the Appellant in support of their contention regarding applicability of the said Notification does not hold good as 'solely and principally' have not been used to describe usage of static converter for applicability of notification. The words and phrases used in the notification are sufficient to suggest and clarify that exemption from Basic Custom Duty is applicable to only those static converters which are meant for automatic data processing machine and units thereof and telecommunication apparatus other than static converters for cellular mobile phones.** The Appellant has wrongly interpreted the notification by stating that UPS which were imported by the Appellant vide the above mentioned 36 Bills of Entry are intended to be used in operation of machines which either ultimately qualify as Telecommunication apparatus or ADP machine or where ADP machine is an integral part. This interpretation which has been done by introduction of new words and phrases in the notification is against the settled law that a notification has to be construed by the etymology used in the notification. In this regard, I would like to rely on the judgment of the Constitution Bench of Hon'ble Supreme Court in Hansraj Gordhandas v. H.H. Dave - (1996) 2 SCR 253, in which the bench held that such a notification has to be interpreted in the light of the words employed by it and not on any other basis. This was so held in the context of the principle that in a taxing statute, there is no room for any intendment, that regard must be had to the clear meaning of the words and that the matter should be governed wholly by the language of the notification, i.e., by the plain terms of the exemption." **I do not see any ambiguity/confusion arising out of the language**

used in the notification allowing exemption from Basic Customs Duty to static converters for automatic data processing machine and units thereof, and telecommunication apparatus other than static converters for cellular mobile phones.

Addition of words such as 'inbuilt', 'built-in' etc. to interpret a notification is neither warranted nor permitted considering several judicial pronouncements.

9. From the above discussions, it can be inferred that static converters which are meant only for automatic data processing machine and units thereof, and telecommunication apparatus other than static converters for cellular mobile phones are eligible for exemption from Basic Customs Duty under serial number 4 of the Notification No 25/2005-Cus. dated 01.03.2005. Such exemption is not available to static converters meant for machines of healthcare, infrastructure sector etc., machines which can indirectly be considered as ADP machine etc."

(emphasis supplied)

6. Shri Akhilesh Kangazia, learned counsel for the appellant submitted that the Tribunal has, in the case of the appellant, held that the appellant was entitled to seek exemption from payment of basic customs duty under serial No. 4 of Notification No. 25/2005-Cus dated 1st March 2005⁴, and so the present appeals would have to be allowed.

7. Shri Deepak Sharma, Learned Authorised Representative appearing for the department supported the impugned order.

8. The submissions made by the learned counsel appearing for the appellant and the learned authorized representative appearing for the department have been considered.

4. the Exemption Notification

9. Serial No. 4 of the Exemption Notification on which reliance has been placed reads as follows:

Sr. No.	Heading, Sub - heading or Tariff item	Description of goods
4.	8504 40	Static converters for automatic data processing machines and units thereof, and telecommunication apparatus, other than static converters for cellular mobile phones

10. The Commissioner (Appeals) has dismissed the appeals holding that the static converter which the appellant had imported meant for automatic data processing machines and units thereof and telecommunication apparatus other than static converters for cellular mobile phones are not eligible for exemption under Exemption Notification.

11. This issue was examined by a Division Bench of the Tribunal in the own case of the appellant⁵ which arose from the passing of the speaking order. The Tribunal held that the appellant is entitled to seek exemption from payment of basic customs duty on the goods under the Exemption Notification. The relevant findings of the Tribunal are as follows:

“11. In view of the foregoing discussions and analysis, and on the basis of the orders of the Tribunal and the judgements of Hon’ble Supreme Court as discussed above, we are of the considered view that the impugned goods viz. ‘Uninterruptible or Uninterrupted Power Supply (UPS) system classifiable under Customs Tariff Item (CTI) 8504 4090, is eligible for full exemption from BCD vide Serial No. 4 of Notification No. 25/2005-Customs dated 01.03.2005. Accordingly, the impugned order dated 16.03.2023 to the extent it had upheld the order of the original authority in denying the aforesaid customs duty exemption, confiscation of the imported goods and imposition of redemption fine and penalties on the appellants, does not stand the scrutiny of law and therefore is not legally sustainable.”

12. It also needs to be noted that another Division Bench of the Tribunal in **Prostarm Info Systems Ltd vs. Commissioner of Customs, Nhava Sheva-V, JNCH**⁶ also held that the benefit of Exemption Notification is available to imported UPS. The relevant portion of the decision is reproduced below:

"2. Denial of the benefit of Notification No.25/2005-Cus. dated 01.03.2005 in respect of "Uninterrupted Power Supply" (UPS) is the subject matter of present dispute. The authorities below have denied the benefit of such notification on the basis of the CTH 8504 40, holding that the product in question shall not be eligible for the benefit of exemption on the ground that the usage of the said goods are not specific to any particular Automatic Data Processing (ADP) machine. On perusal of the case records, more specifically the adjudication order dated 30.04.2024, we find that the original authority had referred to the Co-ordinate Bench decision rendered in the case of Cyber Power System India Vs. Commissioner of Customs 2024 (2) TMI 875-CESTAT-KOLKATA relied upon by the appellants. However, he had not recorded any findings on such decided case on the ground that the outcome of the decision passed by the Coordinate Bench is not known to the department. It is evident from such observation made by the original authority and upheld by the learned Commissioner (Appeals) that the issue arising out of the present dispute has already been dealt with in favour of the importer in the case of Cyber Power System India(supra). Thus, we are of the opinion that different interpretation cannot be placed to decide the present appeals differently."

13. This decision of the Tribunal in **Prostarm Info Systems Ltd** was accepted by the department, as is clear from the letter dated 8th May 2025 sent by Superintendent of Customs, CRAC (I), JNCH. The relevant portion of the said communication is reproduced below:

“In this regard, it is informed that the above mentioned CESTAT Final Order No. 85259-85260/2025-CU[DB] dated 22.01.2025 in case of M/s Prostarm Info System Ltd., has been accepted by the competent authority on 29.04.2025.”

14. In view of the aforesaid decision of the Tribunal in the matter of the appellant and in the matter of **Prostarm Info Systems Ltd**, which decision has been accepted by the department, the impugned order dated 31st October 2023 passed by the Commissioner of Customs (Appeals), Nhava Sheva in respect of the subsequent 36 Bills of Entry would have to set aside and is set aside. All the 36 appeals are, accordingly, allowed.

(Dictated and pronounced in the open court)

(JUSTICE DILIP GUPTA)
PRESIDENT

(C J MATHEW)
MEMBER (TECHNICAL)

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