BY E-MAIL

**File No.06/2024-Opinion**

12.01.2024

M/s. Ambica Glass House

Attn.: Mr. Bharath Jain <ambicaglasshouse@gmail.com>

Sir,

Received payment. Please find attached draft reply to be given to the Assistant Commissioner of Customs, Krishnapatnam Custom House. This can be typed in your firm’s letterhead and after due signature submitted to the department and acknowledgement taken.

Regards,

Murugappan

Attached: as above.

sm/ss

**Draft Reply:**

Date: \_\_\_\_\_\_\_\_\_\_

To:

The Assistant Commissioner of Customs,

O/o The Additional Commissioner of Customs,

Krishnapatnam Custom House,

Kaps Building, Krishnapatnam Port Area,

Gopalapuram, Muthukur – 524 344,

SPSR Nellore District.

Sir,

**Sub.: Customs – Non payment of BCD and IGST on import of Clear Float Glass from Malaysia.**

**Ref.: Letter dated 05.01.2024 issued from File No.CUS/AG/4/2024-IMP-ASSMNT-CH-KRISHNAPATNAM – DIN: 20240155MK000062146B.**

1. We are in receipt of the above communication from you directing us to pay the differential duty of Rs.5,56,569/- with applicable interest within a week.

2. The above demand is made on the basis of alleged re-classification of the goods imported by us viz. Float Glass. For the various consignments referred to in the above communication, we have claimed classification under heading 7005 1090. Your letter suggests that the correct classification is under 7005 2090 and accordingly, duty to the extent of Rs.5,56,569/- with interest is being demanded.

3. At the outset, we would like to submit that the proposed re-classification is not tenable and the letter sent by you completely fails to indicate how the classification made by us is not in order.

4. However, without going into the merits of the proposed re-classification of the goods, we would like to state that your letter does not indicate any authority for demand of differential duty in respect of these goods. There are four bills of entry involved as per the table attached to your letter. These are as follows:

|  |  |
| --- | --- |
| **Sl.No.** | **Bill of Entry No. & Date** |
| 1. | 4455230 dt. 18.12.2017 |
| 2. | 4561857 dt. 26.12.2017 |
| 3. | 4647400 dt. 02.01.2018 |
| 4. | 4931282 dt. 24.01.2018 |

5. In respect of the above bills of entry covering goods imported during 2017 and 2018 (January 2018) any demand in respect of normal period can be made under Section 28 of Customs Act within a period of two years. Even if the ground of suppression or mis-statement is invoked, the department will get a total of five years for issue of demand notice as per Section 28 mentioned above. In the present case, while the normal period has expired long back, even for invoking the extended period of five years, the time limit available is over. In respect of the last bill of entry filed on 24.01.2018 the five-year period has expired by 23.01.2023.

6. Thus, in the present case, the duty demand has been made beyond the time limit stipulated in Section 28.

7. As such, on the question of time bar also the demand made by you for payment of the alleged differential duty with interest does not stand any scrutiny of law.

8. Under these circumstances, we would request you to close the matter without any further proceedings.

Thanking you,

Yours faithfully,

For **Ambica Glass House**

Authorised Signatory