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

Date of decision: 14th May, 2025

\+ **W.P.(C) 6289/2025**

M/S WESTAN ELECTRICAL APPLIANCES .....Petitioner

Through: Mr. Kartik Vashisht and Mr. Ajay Kumar, Advocates.

versus

THE COMMISSIONER OF CUSTOMS & ANR. .....Respondents

Through: Mr. Piyush Beriwal, SSC with Mr. Nikhil Kumar Chaubey and Ms. Jyotsna Vyas, Advocates for R-1 and R-2.

\+ **W.P.(C) 6283/2025**

M/S WESTAN ELECTRICAL APPLIANCES .....Petitioner

Through: Mr. Kartik Vashisht and Mr. Ajay Kumar, Advocates.

versus

THE PRINCIPAL COMMISSIONER OF CUSTOMS & ANR. .....Respondents

Through: Ms. Anushree Narain, SSC with Mr. Ankit Kumar, Advocate.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

<u>Prathiba M. Singh, J. (Oral)</u>

1. This hearing has been done through hybrid mode.

2. The present petitions have been filed by the Petitioner-M/s. Westan Electrical Appliances under Article 226 of the Constitution of India, *inter alia*, seeking directions to the Respondents to consider the representation filed by the Petitioner on 18th March 2024 and 24th March 2025 respectively.

3. These petitions further seek directions to the Respondents to pass a consolidated or separate speaking order(s) under Section 17(5) of the Customs Act, 1962, in respect of the following bills of entry, under which the Petitioner imported various goods:

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Sl no.	BILL OF ENTRY NUMBER	DATE
1.	B/E No. 5476839	07.09.2024
2.	B/E No. 6144303	16.10.2024
3.	B/E No. 6638042	12.11.2024
4.	B/E No. 7528692	30.12.2024
5.	B/E No. 7755864	13.01.2025
6.	B/E No. 8673539	03.03.2025

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S. No.	BILL OF ENTRY NUMBER	DATE
1.	B/E No. 7129913	09.12.2024
2.	B/E No. 6548559	07.11.2024
3.	B/E No. 5906418	01.10.2024

4. According to the Petitioner, the goods are liable to be charged to Customs Duty under Customs Tariff Heading (hereinafter, '*CTH*') 85169000. However, the Customs Department has charged the goods under the above BoEs under CTH 85168000.The Petitioner has got the goods released after

paying the Customs Duty under protest. However, the grievance of the Petitioner is that a speaking order has not been passed till date. The Court on the last date of hearing in ***W.P.(C) 6289/2025*** i.e., 13th May, 2025 had directed the Ld. Sr. Standing Counsel (SSC) appearing for the Department to seek instructions in this regard.

5. Today, Mr. Piyush Beriwal, ld. SSC, under instructions, submits that the Petitioner has not disclosed all the relevant facts to the Court. There were certain earlier consignments of identical goods, which were imported by the Petitioner, which were also classified incorrectly and were provisionally released.

6. Thereafter, it is also submitted that a Show Cause Notice has been issued on 15th January, 2025, in that regard, to which a reply is yet to be filed. In the said Show Cause Notice, the question that has to be adjudicated is whether the goods would fall under Tariff heading **CTH 85168000** or Tariff Heading **CTH 85169000**.

7. In view of the fact that the Show Cause Notice with regard to the classification of identical goods has already been issued, this Court is of the opinion that the proceedings need not be multiplied. In respect of the earlier bills of entry, provisional release has already been undertaken. In respect of the above bills of entry, as per the Petitioner, the customs duty has been paid in terms of the classification given by the Department, under protest.

8. Accordingly, let the proceedings in the Show Cause Notice dated 15th January, 2025 continue. Considering the fact that the issue raised in both the proceedings are same and the goods involved are also identical, the adjudication of the Show Cause Notice dated 15th January, 2025 shall bind the earlier bills of entry as also the set of present bills of entry.

9. The Petitioner is permitted to file a reply within thirty days to the Show Cause Notice dated 15th January, 2025 bringing all the facts on record in respect of the earlier and the present bills of entry. The Adjudicating Authority shall comprehensively adjudicate the matter in respect of all the bills of entry and pass one comprehensive order.

10. It is made clear that if the Petitioner does not file a reply to the SCN dated 15th January, 2025, within thirty days, the right to file the reply shall automatically stand closed without any further opportunity.

11. An opportunity of personal hearing shall also be given to the Petitioner. The hearing notice shall, apart from the usual course of communication, shall also be communicated at the following email address and mobile No. :

Email ID : kartikvashisht@ymail.com

Mobile No. : 9999947175

12. After hearing the Petitioner, the Adjudicating Authority shall take a decision in respect of the classification of the goods as to whether they would fall under CTH 85168000 and CTH 85169000.

13. The writ petition is disposed of in these terms. Pending application(s), if any, also stand disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MAY 14, 2025/*nd/Ar.*