IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-03-2026

CORAM

THE HON'BLE Dr.JUSTICE G. JAYACHANDRAN

AND

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CMA No. 499 of 2026
and
C.M.P.No.5939 of 2026

The Commissioner of Customs
Chennai VII Commissionerate,
New Customs House,
Air Cargo Complex, Meenambakkam,
Chennai - 600 027.

..Appellant(s)

Vs

M/s. Ingram Micro India Pvt Ltd
MF 7 Cipet Hostel Road,
TVK Industrial Estate,
Ekkattuthangal,
Guindy,Chennai - 600 032.

..Respondent(s)

Civil Miscellaneous Appeal filed under Section 130 of the Customs Act, against the order dated 06.05.2025 passed by the Customs, Excise & Service Tax Appellate Tribunal, Chennai (CESTAT) in Customs Appeal No.40860 of 2021.

For Appellant(s): Mr.Arvind Srevatsa

For Respondent(s): No appearance

JUDGMENT

(Judgment of the Court was delivered by Dr.G.Jayachandran J.)

This appeal is filed by the Department being aggrieved by the order passed by the CESTAT on the sole ground that the assessment order impugned is passed after 13 years of the issuance of the show cause notice, dated 12.03.2007.

2. Learned Standing Counsel appearing for the Department submitted that it is a case of mis-declaration of the goods imported and the Department has a very good case. However, considering the pre-amended proviso to Section 28 of the Customs Act, the Tribunal has allowed the appeal filed by the assessee on the ground of laches.

3. The point involved in the appeal before the Tribunal was that the assessee imported loose optical fibre cable, but in the year 2007, he sought for the benefit of the Customs Notification dated 01.03.2005. However, on scrutiny of the imported documents, the Director of Revenue Intelligence (i.e. DRI) found that it is a mis-declaration of goods and the goods have to be re-classified. Hence, the show cause notice dated 12.03.2007 was issued on the assessee.

4. A detailed reply was given by the assessee immediately to the show cause notice. However, the Department has taken 13 years to decide the issue and pass order-in-original. This was challenged before the CESTAT by the assessee in the Customs Appeal No.40860 of 2021, in which the CESTAT, considering the unexplained delay in passing the order-in-original, on being aggrieved by the order-in-original, the assessee preferred appeal before the Commissioner of Customs (Appeals), who had re-appreciated the facts and law and confirmed the order-in-original.

5. By the impugned order dated 04.03.2021, while upholding the classification of loose cables fibre relating to the assessee, was partially allowed and remanded the matter back to decide after issuance of notice and following the principles of natural justice, quantifying the demand amount under Section 28 of the Customs Act, and interest, is liable to be paid for the duty amount demanded under Section 28-AB of the Customs Act, 1962. Being aggrieved, the assessee has preferred appeal before the CESTAT, which, on considering the grounds of appeal, particularly, enormous delay in passing the order-in-original and without adverting to the merits of the claims of the Department, had allowed the appeal on the ground of laches. Being aggrieved, the present CMA is filed on the ground of laches by the Department.

6. Learned Standing Counsel appearing for the Department submitted that Section 28 of the Customs Act, as it stood prior to the amendment in the year 2018, does not contemplate any limitation. Therefore, the post-amended proviso to Section 28 of the Customs Act, ought not to have been applied by the CESTAT to decline the right of the Department to re-assess the amount and therefore, by remanding the matter back giving adequate opportunity to the assessee, will not cause any prejudice to the assessee. Hence, the order of the CESTAT is to be interfered with.

7. We have given our conscious consideration to the submissions made by the Department. No doubt, the law that existed prior to the amendment in the year 2018, does not fix any time-line. However, the legal principles and the catena of judgments of this Court as well as by the Hon'ble Supreme Court, always give due consideration for laches on the part of the parties in discharging their responsibility.

8. In this case, on a perusal of the materials available on record, we find that the delay in passing the order-in-original, is totally and squarely applicable on the Tribunal and to the Department. When the assessee has not committed any delay and when there is no act on the part of the assessee, the same is attributable for the said delay and the delay is enormous, and while applying the principles of latches and to give a quietus to the issue and not to keep the

dispute perpetually open, the CESTAT has allowed the appeal filed by the assessee.

9. We find that the reasons given by the CESTAT, are in tune with the principles of natural justice and in law of certainty.

10. Hence, we find no ground made out to frame any substantial question of law to be interfered in this appeal, with the findings of the CESTAT.

11. For the reasons stated above, this CMA is dismissed. There shall be no order as to costs. Consequently, the Miscellaneous Petition is closed.

(G.J.,J.) (R.S.V.,J.)
09-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
cs

To

1. The Registrar, CESTAT, Chennai.

2. The Commissioner of Customs (Appeals),
   Meenambakkam, Chennai-600 027.

3. The Commissioner of Customs
Chennai VII Commissionerate,
New Customs House,
Air Cargo Complex, Meenambakkam,
Chennai - 600 027.

Dr.G.JAYACHANDRAN, J.
AND
R.SAKTHIVEL, J.

CS

CMA No. 499 of 2026

09-03-2026