IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

TUESDAY, THE 27TH DAY OF MAY 2025 / 6TH JYAISHTA, 1947

CUS.APPEAL NO. 2 OF 2024

(AGAINST THE FINAL ORDER NO.FO/C/A/20102/2024-CU(DB) DATED 16.02.2024 IN APPEAL NO.20618/2017 DATED 09.02.2017 ON THE FILE OF THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, SOUTYH ZONAL BENCH AT BANGALORE RECEIVED BY THE APPELLANT ON 05.03.2024)

APPELLANT/RESPONDENT/ASSESSEE:

M/S SOLGEN ENERGY PVT. LTD
22/314-BKUTTANELLUR P.O THRISSUR REPRESENTED BY ITS DIRECTOR, SHRI. CHRISTO GEORGE, PIN - 680014

BY ADVS.
SRI.M.BALAGOPAL
SMT.R.DEVIKA
SMT.ANJALI MENON

RESPONDENT/APPELLANT/REVENUE:

COMMISSIONER OF CUSTOMS
CUSTOM HOUSE, WILLINGDON ISLAND, COCHIN, PIN - 682009

BY ADV SRI.SUVIN R MENON

THIS CUSTOMS APPEAL HAVING COME UP FOR FINAL HEARING ON 27.05.2025, ALONG WITH Cus.Appeal.3/2024, 4/2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

TUESDAY, THE 27TH DAY OF MAY 2025 / 6TH JYAISHTA, 1947

CUS.APPEAL NO. 3 OF 2024

(AGAINST THE FINAL ORDER NO.FO/C/A/20541/2024-CU(DB) DATED 11.07.2024 IN APPEAL NO.21152/2016 ON THE FILE OF THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, SOUTH ZONAL BENCH AT BANGALORE RECEIVED BY THE APPELLANT ON 23.07.2024)

APPELLANT/RESPONDENT/ASSESSEE:

M/S SOLGEN ENERGY PVT. LTD
22/314-BKUTTANELLUR P.O THRISSUR- REPRESENTED BY ITS DIRECTOR, SHRI. CHRISTO GEORGE, PIN - 680014

BY ADVS.
SRI.M.BALAGOPAL
SMT.R.DEVIKA
SMT.ANJALI MENON

RESPONDENT/APPELLANT/REVENUE:

COMMISSIONER OF CUSTOMS
CUSTOM HOUSE, WILLINGDON ISLAND, COCHIN-, PIN - 682009

BY ADV SRI.SUVIN R MENON, SC

THIS CUSTOMS APPEAL HAVING COME UP FOR FINAL HEARING ON 27.05.2025, ALONG WITH Cus.Appeal.2/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

TUESDAY, THE 27TH DAY OF MAY 2025 / 6TH JYAISHTA, 1947

CUS.APPEAL NO. 4 OF 2024

(AGAINST THE FINAL ORDER NO.FO/C/A/20540/2024-CU(DB) DATED 11.07.2024 IN APPEAL NO.21499/2016 ON THE FILE OF THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, SOUTYH ZONAL BENCH AT BANGALORE RECEIVED BY THE APPELLANT ON 23.07.2024)

APPELLANT/RESPONDENT/ASSESSEE:

M/S SOLGEN ENERGY PVT. LTD
22/314-BKUTTANELLUR P.O THRISSUR- REPRESENTED BY ITS DIRECTOR, SHRI. CHRISTO GEORGE, PIN - 680014

BY ADVS.
SRI.M.BALAGOPAL
SMT.R.DEVIKA
SMT.ANJALI MENON

RESPONDENT/APPELLANT/REVENUE:

COMMISSIONER OF CUSTOMS
CUSTOM HOUSE, WILLINGDON ISLAND, COCHIN-, PIN - 682009

BY ADV SRI.SUVIN R MENON, SC

THIS CUSTOMS APPEAL HAVING COME UP FOR FINAL HEARING ON 27.05.2025, ALONG WITH Cus.Appeal.2/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dr. A.K.Jayasankaran Nambiar, J.

In these appeals preferred by the assessee what is impugned are the final orders dated 16.02.2024 and 11.07.2024 of the Customs, Excise and Service Tax Appellate Tribunal, Bangalore in appeals preferred by the Customs Department against orders of the First Appellate Authority that had allowed the appeal preferred by the appellant against orders of the original authority under the Customs Act denying the appellant the benefit of exemption under Notification No.12/2012 CE dated 17.03.2012 in respect of inverter units imported by it.

2. The brief facts necessary for the disposal of these appeals are as follows:

The appellant herein had imported "Grid Tied Solar Inverters" by claiming the exemption of additional duty of customs under Notification No.12/2012 CE dated 17.03.2012. The claim for exemption of duty was rejected by the original authority, who was of the view that the goods imported by the appellant herein could not merit categorisation as a Solar Power Generating System. In the appeals preferred by the appellant before the First Appellate Authority, however, the latter found that no evidence had been adduced by the revenue to demonstrate multiple uses of the solar inverter and inasmuch as the exemption notification had to be construed liberally in favour of the assessee, the goods imported by the appellant would be entitled to the benefit of the exemption notification.

3. In a further appeal carried by the Customs Department before the

Appellate Tribunal, the Appellate Tribunal by the orders impugned in these appeals found that, in as much as the appellant had imported only the inverter component of the Solar Power Generating System and had not imported the photo-voltaic cell necessary for the capture of solar energy along with the inverter, they had not imported a solar power generating system for the purposes of the notification. The Appellate Tribunal, therefore, found that the appellant herein had not satisfied the condition for exemption under the notification aforementioned and allowed the appeal preferred by the Customs Department.

4. Before us, it is the submission of Sri.M.Balagopal, the learned counsel for the appellant that the reasoning of the Appellate Tribunal is flawed since the Appellate Tribunal considered the imported item as only a part of the system and not of the entire system that was entitled to the benefit of the exemption notification. We have also heard Sri. Suvin R.Menon, the learned Standing counsel for the respondent.

On a consideration of the rival submissions, we find that it is the admitted case of the appellant herein that what they had imported was only the inverter component of the Solar Power Generating System since they had not imported, as a composite unit, both the photo-voltaic cell as well as the inverter. Had they imported both the above components together as an integral unit, then perhaps they could have obtained the benefit of the notification that granted an exemption in respect of Solar Power Generating Systems. Inasmuch as the import in the instant case was only of the inverter component, without the photo-voltaic cell - a component that was essential for harnessing solar energy, which could then be routed through the inverter system for the supply of electrical energy to the grid, the appellant cannot be seen as eligible for the benefit of the exemption notification, as rightly found by the Appellate Tribunal. We, therefore, see no reason to interfere with the well reasoned order of the Appellate Tribunal impugned in these appeals. The appeals, therefore fail and are accordingly dismissed.

Sd/-

DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-

P.M.MANOJ
JUDGE

mns

APPENDIX OF CUS.APPEAL 3/2024

PETITIONER ANNEXURES

Annexure A	**THEFINAL ORDER NO. FO/C/A/20541/2024-CU(DB) DATED 11.07.2024 PASSED BY THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, SOUTH ZONAL BENCH AT BANGALORE.**
Annexure B	**A TRUE PHOTOCOPY OF THE RELEVANT PAGES OF THE EXEMPTION NOTIFICATION NO. 12/2012- C.E DATED 17.03.2012.**
Annexure C	**TRUE PHOTOCOPY OF THEORDER NO. 4/2016 DATED 03.05.2016.**
Annexure D	**A TRUE PHOTOCOPY OF THE ORDER IN APPEAL NO. ORDER IN APPEAL NO. COC-CUSTM-000-APP-59/2016-17 DATED 08.07.2016 PASSED BY THE COMMISSIONER (APPEALS), COCHIN.**
Annexure E	**TRUE COPY OF THE FINAL ORDER NO. FO/C/A/20102/2024-CU.(DB) DATED 16.02.2024 PASSED BY THE CESTAT, BANGALORE IN CUSTOMS APPEAL NO. 20618 OF 2017.**
Annexure F	**:TRUE COPY OF THE FINAL ORDER NO. 50361/2022 DATED 22.04.2022 PASSED BY CESTAT, NEW DELHI IN EXCISE APPEAL NO. 52480 OF 2019**
Annexure G	**TRUE COPY OF THEFINAL ORDER PASSED BY CESTAT, BANGALORE IN THE CASE OF BHEL VS. COMMISSIONER OF CENTRAL EXCISE, HYDERABAD, REPORTED IN 2008 (223) E.L.T 609 (TRI.BANG.)**

APPENDIX OF CUS.APPEAL 4/2024

PETITIONER ANNEXURES

Annexure A	**CERTIFIED COPY OF THE FINAL ORDER NO. FO/C/A/20540-/2024-CU(DB) DATED 11.07.2024 PASSED BY THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, SOUTH ZONAL BENCH AT BANGALORE.**
Annexure B	**TRUE PHOTOCOPY OF THE RELEVANT PAGES OF THE EXEMPTION NOTIFICATION NO. 12/2012- C.E DATED 17.03.2012**
Annexure C	**TRUE PHOTOCOPY OF THEORDER NO. 216/2015 DATED 14.12.2015.**
Annexure D	**TRUE PHOTOCOPY OF THE ORDER IN APPEAL NO. 21/2016-17 DATED 29.04.2016 PASSED BY THE COMMISSIONER (APPEALS).**
Annexure E	**TRUE COPY OF THE FINAL ORDER NO. FINAL ORDER NO. FO/C/A/20102/2024-CU.(DB) DATED 16.02.2024 PASSED BY THE CESTAT, BANGALORE IN CUSTOMS APPEAL NO. 20618 OF 2017.**
Annexure F	**TRUE COPY OF THE FINAL ORDER NO. 50361/2022 DATED 22.04.2022 PASSED BY CESTAT, NEW DELHI IN EXCISE APPEAL NO. 52480 OF 2019.**
Annexure G	**TRUE COPY OF THE FINAL ORDER PASSED BY CESTAT, BANGALORE IN THE CASE OF BHEL VS. COMMISSIONER OF CENTRAL EXCISE, HYDERABAD, REPORTED IN 2008 (223) E.L.T 609 (TRI.BANG.)**

APPENDIX OF CUS.APPEAL 2/2024

PETITIONER ANNEXURES

Annexure A	**CERTIFIED COPY OF THE FINAL ORDER NO. FO/C/A/20102/2024-CU(DB) DATED 16.02.2024PASSED BY THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, SOUTH ZONAL BENCH AT BANGALORE**
Annexure B	**TRUE PHOTOCOPY OF THE RELEVANT PAGES OF THE EXEMPTION NOTIFICATION NO. 12/2012- C.E DATED 17.03.2012**
Annexure C	**TRUE PHOTOCOPY OF THEORDER NO. 106/2016 DATED 06.09.2016.**
Annexure D	**TRUE PHOTOCOPY OF THE ORDER IN APPEAL NO. 202-2016-17 DATED 20.01.2017PASSED BY THE COMMISSIONER (APPEALS), COCHIN**
Annexure E	**TRUE COPY OF THE FINAL ORDER NO. 22953/2017 DATED 04.12.2017 IN CUSTOMS APPEAL NO. C/20618/2017-DB**
Annexure F	**TRUE COPY OF THE JUDGMENT DATED 10/01/2023 IN CUSTOMS APPEAL NO. NO.20 OF 2018 PASSED BY THE HON'BLE HIGH COURT OF KERALA**
Annexure G	**TRUE COPY OF THE FINAL ORDER NO. 50361/2022 DATED 22.04.2022 PASSED BY CESTAT, NEW DELHI IN EXCISE APPEAL NO. 52480 OF 2019**
Annexure H	**TRUE COPY OF THE FINAL ORDER PASSED BY CESTAT, BANGALORE IN THE CASE OF BHEL VS. COMMISSIONER OF CENTRAL EXCISE, HYDERABAD, REPORTED IN 2008 (223) E.L.T 609 (TRI.BANG.)**