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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH : AHMEDABAD
O-20, NEW MENTAL HOSPITAL COMPOUND, MEGHANI NAGAR, AHMEDABAD-380016
LARGER BENCH MATTERS
HEARINING NOTICE

Appeal No. : E/1305/2003-, E/1306/2003-, E/1307/2003-, E/1308/2003-

Appellant

Ravi Gum Industries
Dhorji Road,
Navagadh,
JETPUR,
GUJARAT
360370

Respondent

C.C.E. & S.T.-Rajkot
CENTRAL EXCISE BHAVAN,
RACE COURSE RING ROAD...INCOME
TAX OFFICE,
RAJKOT,
GUJARAT
360001

1. The issue involved in the matter is discussed in the Hon'ble Supreme Court of India order dated 09/05/2015 passed in Civil Appeal Nos. 1194-1195 of 2005& 5659-5662 of 2008 (Copy enclosed). The matter is now listed for hearing before LARGER BENCH on 29/07/2015 at 10:30 Hrs.

2. You are hereby directed to make available one (1) sets of appeal/complete paper book and forward them to the registry of this Tribunal well before the date of hearing.

3. You are hereby also directed to supply one set of appeal/ paper book to the O/O Authorised Representative, CESTAT Ahmedabad and the Secretary, Bar Association CESTAT, Ahmedabad, directly under intimation to the registry of this Tribunal well before the date of hearing.

4. Take notice that the Larger Bench case^(s) mentioned above has been fixed for hearing on 29/07/2015 at 10.30 AM or any subsequent date thereafter as per the cause list or as may be convenient to the Hon'ble Bench of this Tribunal before CESTAT, West Zonal Bench - Ahmedabad, O-20 N.M.H. Compound, Meghani Nagar, Ahmedabad-380016

Encl.: Copy of the Hon'ble Supreme Court of India order dated 09/05/2015 passed in Civil Appeal Nos. 1194-1195 of 2005& 5659-5662 of 2008

Dated: 21/07/2015


Deputy/ Assistant
Registrar
CESTAT -
Ahmedabad

Copy To:

1. Registrar, CESTAT, New Delhi
2. Deputy Registrar/ Assistant Registrar, CESTAT, New Delhi, Mumbai, Chennai, Kolkata, Ahmedabad, Bangalore.
3. Secretary, Bar Association, New Delhi, Mumbai, Chennai, Kolkata, Ahmedabad, Bangalore.
4. O/O Authorised Representative CESTAT Ahmedabad.
5. Advocate^(s) / Consultant^(s) / Representative :-

VIPIN KUMAR JAIN ADV
T L C 19TH FLOOR NIRMAL
NARIMAN POINT MUMBAI-21

Babulal K Sakaria
C/o, Ravi Gum Industries,
Dhoraji Road, Navagadh,
JETPUR,
GUJARAT 360001

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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH : AHMEDABAD
O-20, NEW MENTAL HOSPITAL COMPOUND, MEGHANI NAGAR, AHMEDABAD-380016
LARGER BENCH MATTERS
HEARING NOTICE

Appeal No. : E/196/2003-DB, E/197/2003-DB

Appellant

Kraps Chem P Ltd
A-101, Balaji Industrial Estate,
Near Dan Detergent, Piparia,
SILVASSA,
U T OF DADRA & NAGAR HAVELI

Respondent

C.C.E. & S.T.-Daman
3RD FLOOR...ADARSH DAHAN
BUILDING,
OPP.VAPI TOWN POLICE STATION,
DAMAN
396191

1. The issue involved in the matter is discussed in the Hon'ble Supreme court of India order dated 09/05/2015 passed in Civil Appeal Nos. 1194-1195 of 2005 & 5659-5662 of 2008 (Copy enclosed). The matter is now listed for hearing before LARGER BENCH on 27/07/2015 at 10:30 Hrs.

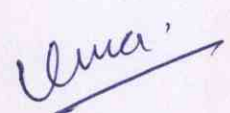
2. You are hereby directed to make available one (1) sets of appeal/complete paper book and forward them to the registry of this Tribunal well before the date of hearing. (29/7/15)

3. You are hereby also directed to supply one set of appeal/ paper book to the O/O Authorised Representative, CESTAT Ahmedabad and the Secretary, Bar Association CESTAT, Ahmedabad, directly under intimation to the registry of this Tribunal well before the date of hearing.

4. Take notice that the Larger Bench case^(s) mentioned above has been fixed for hearing on 27/07/2015 at 10.30 AM or any subsequent date thereafter as per the cause list or as may be convenient to the Hon'ble Bench of this Tribunal before CESTAT, West Zonal Bench - Ahmedabad, O-20 N.M.H. Compound, Meghani Nagar, Ahmedabad-380016

Encl.: Copy of the Hon'ble Supreme court of India order dated 09/05/2015 passed in Civil Appeal Nos. 1194-1195 of 2005 & 5659-5662 of 2008

Dated: 20/07/2015


Deputy/ Assistant
Registrar
CESTAT -
Ahmedabad

Copy To:

1. Registrar, CESTAT, New Delhi
2. Deputy Registrar/ Assistant Registrar, CESTAT, New Delhi, Mumbai, Chennai, Kolkata, Ahmedabad, Bangalore.
3. Secretary, Bar Association, New Delhi, Mumbai, Chennai, Kolkata, Ahmedabad, Bangalore.
4. O/O Authorised Representative CESTAT Ahmedabad.
5. Advocate^(s) / Consultant^(s) / Representative :-

R R Gupta
Managing Dir Of M/s, Kraps Chem
P Ltd, A-101, Balaji Industrial
Estate,
Near Dan Detergent, Piparia,
SILVASSA,
U T OF DADRA & NAGAR

communications should
be addressed to the Registrar,
Supreme Court by designation,
NOT by name
Telegraphic address:-
"SUPREMECO"

SC/225

INWARD NO 14062015
29 MAY 2015
INWARD CLERK
CESTAT, AHMEDABAD.

From: THE ASSISTANT REGISTRAR,
SUPREME COURT OF INDIA,
NEW DELHI.

To: The Registrar
Customs, Excise and Service Tax
APPELLATE TRIBUNAL, WEST ZONAL BENCH,
3rd, 4th, and 5th Floor, 34, Jai Centre
P.D'MELLO ROAD, POONA STREET, MASJID(E),
MUMBAI-400 009

THE REGISTRAR,
CUSTOMS EXCISE & SERVICE TAX
APPELLATE TRIBUNAL,
WEST ZONAL BENCH, O-20, MEGHANI NAGAR,
NEW MENTAL HOSPITAL COMPOUND,
AHMEDABAD -380 016

CIVIL APPEAL NOS. 1194-1195 of 2005 & 5659-5662 of 2008

[Appellate Tribunal's Final Order dated 6.10.2004 in Appeal Nos. E/196 & 197/03-Mum,
Appellate Tribunal's Final Order dated 12.10.2007 in Appeal Nos. [E/1305 to 1308/03]

Commissioner of Central Excise & Customs Etc.

.....Appellants

-Versus-

M/S. Kraps Chem Pvt. Ltd. & Anr Etc.

.....Respondents

Sir,

In pursuance of Order XII, Rule 6, S.C.R. 2013, I am directed to transmit herewith a certified copy of the signed order dated 1st May, 2015 in the appeals above-mentioned for information and necessary action at your end. The certified copy of the decree and original record made in the said appeals will be sent in due course.

Yours faithfully,

[Signature]
ASSISTANT REGISTRAR

(Mr. Nema)

Trine Banno

Pls link and put up
29/5/15

A
b.
Supr
NOC

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Certified to be true copy

[Signature]
Assistant Registrar (Judl.)

CIVIL APPEAL NOS. 1194-1195 OF 2005

...../.....2015
SUPREME COURT OF INDIA

Commnr. Of Customs & Central Excise

Appellant(s)

199556

VERSUS

M/s. Kraps Chem Pvt. Ltd. & Anr.

Respondent(s)

WITH

CIVIL APPEAL NOS. 5659-5662 OF 2008

ORDER

The assessee/respondent herein is engaged in the manufacture of Guar Dal Powder. According to the respondent the aforesaid product is a product of milling industry and therefore classifiable under Chapter Heading 11.01. If the product falls in the aforesaid category it attracts nil duty. On the other hand, view which is taken by the Revenue is that after the aforesaid process of converting Gaur Dal into powder is undertaken it becomes 'Gum' and therefore it needs to be classified under Chapter Heading 1301.10. Show cause notice was issued which has resulted in demanding excise duty in the sum of Rs.92,53,196/- along with penalty and interest.

Appeals against the said order have been allowed by the Tribunal, holding that it would remain a product of milling industry and therefore needs to be classified under Chapter Heading 11.01.

It is argued by Mr. Radha Kirshnan, learned senior counsel appearing for the appellants that it was pointed out before the Tribunal that in the case of Dilip Gum Industries vs. CCE, Rajkot (Order No. A/772-773/WZB/2004/C-II) dated 1.9.2004 the Tribunal held that 'Guar Gum' is classifiable under Heading 1301.10. The Tribunal further noted that in another judgment given by the another Bench of the Tribunal viz., Hindustan Gum and Chemicals Ltd. vs. CCE, Ahmedabad-II (2004 (91) ECC 289) where the case is concerned tamarind Kernel powder (a kind of gum only) it was held to be classified under Chapter 11 as the product of milling industry and not a gum fall under Heading 13.01. Submission of Mr. K. Radhakrishnan is that in the aforesaid situation the Tribunal should have referred the matter to the larger Bench for consideration. Instead, the Tribunal chose to follow the decision in Hindustan Gum and Chemicals Ltd., holding at the same time that the order in Dilip Gum Industries does not come as a binding precedent, which according to the learned senior counsel was impermissible.

We are inclined to agree with the aforesaid submission of learned senior counsel. After finding a conflict of opinion rendered by two coordinate Benches in the aforesaid two cases, the only course of action open for the Tribunal was to refer the matter to the larger Bench to resolve this conflict. It may also be recorded that against the judgment of the Tribunal in Hindustan Gum and Chemicals Ltd. the Department had filed an appeal in this Court and this Court

has referred the matter back to the Tribunal observing that some of the aspects have not been properly dealt with by the Tribunal. The said judgment remanding the case back to the Tribunal is reported as Commissioner of Central Excise, Ahmedabad v. Hindustan Gum & Chemicals Ltd. 2011 (272) E.L.T. 326 (S.C.).

We, thus, set aside the impugned order and remit the case back to the Tribunal. We also direct that the matter shall be heard by a larger Bench. We may record that in the impugned order the Tribunal has held that the aforesaid process constitutes 'manufacture'. Since in the case of Hindustan Gum and Chemicals Ltd. this issue was left open to be decided by the Tribunal, the larger Bench of the Tribunal can take a fresh look into this issue in the instant case as well.

Having regard to the fact that the matter is quite old, we direct the larger Bench of the Tribunal to decide the matter within six months from today.

The appeals are disposed of accordingly.

... *SA.* .J.
(A.K. SIKRI)

..... *Sd.*J.
(ROHINTON FALI NARIMAN)

New Delhi;
Date: 1.5.2015.