CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT AHMEDABAD

REGIONAL BENCH – COURT NO. 01

CUSTOMS Appeal No. 10432 of 2023-DB

[Arising out of Order-in-Original/Appeal No AHM-CUSTM-000-APP-771-20-21 dated 11.02.2021 passed by Commissioner of CUSTOMS-AHMEDABAD]

KRISHNA COLOUR CHEM **...Appellant**
1 Jai Hind Society Rambaugh Maninagar
Ahmedabad
Gujarat-380028

VERSUS

C.C.-AHMEDABAD **...Respondent**
Custom House,
Near All India Radio Navrangpura,
Ahmedabad,
Gujarat

WITH

i. **Customs Appeal No. 10433 of 2023 (KRISHNA COLOUR CHEM)**
ii. **Customs Appeal No. 10434 of 2023 (KRISHNA COLOUR CHEM)**
iii. **Customs Appeal No. 10435 of 2023 (KRISHNA COLOUR CHEM)**
iv. **Customs Appeal No. 10436 of 2023 (KRISHNA COLOUR CHEM)**
v. **Customs Appeal No. 10437 of 2023 (KRISHNA COLOUR CHEM)**
vi. **Customs Appeal No. 10438 of 2023 (KRISHNA COLOUR CHEM)**
vii. **Customs Appeal No. 10439 of 2023 (KRISHNA COLOUR CHEM)**
viii. **Customs Appeal No. 10440 of 2023 (KRISHNA COLOUR CHEM)**
ix. **Customs Appeal No. 10441 of 2023 (KRISHNA COLOUR CHEM)**
x. **Customs Appeal No. 10442 of 2023 (KRISHNA COLOUR CHEM)**

xi. **Customs Appeal No. 10443 of 2023 (KRISHNA COLOUR CHEM)**

xii. **Customs Appeal No. 10444 of 2023 (KRISHNA COLOUR CHEM)**

xiii. **Customs Appeal No. 10445 of 2023 (KRISHNA COLOUR CHEM)**

xiv. **Customs Appeal No. 10446 of 2023 (KRISHNA COLOUR CHEM)**

xv. **Customs Appeal No. 10447 of 2023 (KRISHNA COLOUR CHEM)**

xvi. **Customs Appeal No. 10448 of 2023 (KRISHNA COLOUR CHEM)**

xvii. **Customs Appeal No. 10449 of 2023 (KRISHNA COLOUR CHEM)**

xviii. **Customs Appeal No. 10450 of 2023 (KRISHNA COLOUR CHEM)**

xix. **Customs Appeal No. 10451 of 2023 (KRISHNA COLOUR CHEM)**

xx. **Customs Appeal No. 10452 of 2023 (KRISHNA COLOUR CHEM)**

xxi. **Customs Appeal No. 10453 of 2023 (KRISHNA COLOUR CHEM)**

xxii. **Customs Appeal No. 10454 of 2023 (KRISHNA COLOUR CHEM)**

xxiii. **Customs Appeal No. 10455 of 2023 (KRISHNA COLOUR CHEM)**

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xxv. **Customs Appeal No. 10457 of 2023 (KRISHNA COLOUR CHEM)**

xxvi. **Customs Appeal No. 10458 of 2023 (KRISHNA COLOUR CHEM)**

xxvii. **Customs Appeal No. 10459 of 2023 (KRISHNA COLOUR CHEM)**

xxviii. **Customs Appeal No. 10460 of 2023 (KRISHNA COLOUR CHEM)**

xxix. **Customs Appeal No. 10461 of 2023 (KRISHNA COLOUR CHEM)**

xxx. **Customs Appeal No. 10462 of 2023 (KRISHNA COLOUR CHEM)**

xxxi. **Customs Appeal No. 10463 of 2023 (KRISHNA COLOUR CHEM)**

xxxii. **Customs Appeal No. 10464 of 2023 (KRISHNA COLOUR CHEM)**

xxxiii. **Customs Appeal No. 10465 of 2023 (KRISHNA COLOUR CHEM)**

xxxiv. **Customs Appeal No. 10466 of 2023 (KRISHNA COLOUR CHEM)**

xxxv. **Customs Appeal No. 10467 of 2023 (KRISHNA COLOUR CHEM)**

xxxvi. **Customs Appeal No. 10468 of 2023 (KRISHNA COLOUR CHEM)**

xxxvii. **Customs Appeal No. 10469 of 2023 (KRISHNA COLOUR CHEM)**

xxxviii. **Customs Appeal No. 10470 of 2023 (KRISHNA COLOUR CHEM)**

xxxix. **Customs Appeal No. 10471 of 2023 (KRISHNA COLOUR CHEM)**

xl. **Customs Appeal No. 10472 of 2023 (KRISHNA COLOUR CHEM)**

xli. **Customs Appeal No. 10473 of 2023 (KRISHNA COLOUR CHEM)**

xlii. **Customs Appeal No. 10474 of 2023 (KRISHNA COLOUR CHEM)**

xliii. **Customs Appeal No. 10475 of 2023 (KRISHNA COLOUR CHEM)**

xliv. **Customs Appeal No. 10476 of 2023 (KRISHNA COLOUR CHEM)**

xlv. **Customs Appeal No. 10477 of 2023 (KRISHNA COLOUR CHEM)**

xlvi. **Customs Appeal No. 10478 of 2023 (KRISHNA COLOUR CHEM)**

xlvii. **Customs Appeal No. 10479 of 2023 (KRISHNA COLOUR CHEM)**

xlviii. **Customs Appeal No. 10480 of 2023 (KRISHNA COLOUR CHEM)**

- **xlix. Customs Appeal No. 10481 of 2023 (KRISHNA COLOUR CHEM)**
- **l. Customs Appeal No. 10482 of 2023 (KRISHNA COLOUR CHEM)**
- **li. Customs Appeal No. 10483 of 2023 (KRISHNA COLOUR CHEM)**
- **lii. Customs Appeal No. 10484 of 2023 (KRISHNA COLOUR CHEM)**
- **liii. Customs Appeal No. 10485 of 2023 (KRISHNA COLOUR CHEM)**
- **liv. Customs Appeal No. 10486 of 2023 (KRISHNA COLOUR CHEM)**
- **lv. Customs Appeal No. 10487 of 2023 (KRISHNA COLOUR CHEM)**
- **lvi. Customs Appeal No. 10696 of 2016 (KRISHNA COLOUR CHEM)**
- **lvii. Customs Appeal No. 10697 of 2016 (KRISHNA COLOUR CHEM)**
- **lviii. Customs Appeal No. 10795 of 2015 (KRISHNA COLOUR CHEM)**
- **lix. Customs Appeal No. 10796 of 2015 (KRISHNA COLOUR CHEM)**
- **lx. Customs Appeal No. 11828 of 2015 (KRISHNA COLOUR CHEM)**
- **lxi. Customs Appeal No. 11829 of 2015 (KRISHNA COLOUR CHEM)**
- **lxii. Customs Appeal No. 11830 of 2015 (KRISHNA COLOUR CHEM)**
- **lxiii. Customs Appeal No. 13852 of 2014 (KRISHNA COLOUR CHEM)**
- **lxiv. Customs Appeal No. 10488 of 2023 (KRISHNA COLOUR CHEM)**

APPEARANCE:
Shri P D Rachchh, Advocate appeared for the Appellant
Shri Sanjay Kumar, Superintendent (Authorized Representative) for the Respondent

**CORAM: HON'BLE MEMBER (TECHNICAL), MR. RAJU
HON'BLE MEMBER (JUDICIAL), MR. SOEMSH ARORA**

FINAL ORDER NO. A/ 11936-12000 /2023

DATE OF HEARING:16.08.2023
DATE OF DECISION:12.09.2023

SOMESH ARORA

M/s. Krishna Colour Chem, Parshwanath Complex-1. F-B2/3/4. Nr. Laxmi Ceramics, 8-A National Highway, Trajpur, Morbi-363642 (hereinafter referred to as "the appellant") have filed the present appeals against assessment orders mentioned in the below table (hereinafter referred to as "the Impugned orders") passed by the Assistant Commissioner of Customs, Air Cargo, Ahmedabad (hereinafter referred to as "the Assessing Authority" involving identical facts and common issues for determination, hence taken up together for disposal by way of this common order.

Sr. No	Appeal NO.	Bill of Entry No. & Date/Assessment order.	Amount of duty
1	85/2014	4852078/10-03-2014	1,83,782.00
2	86/2014	5046135/29-03-2014	14,03,216.00
3	87/2014	4870100/11-03-2014	19,04,889.00
4	88/2014	4899667/14-03-2014	12,95,042.00
5	89/2014	4966365/21-03-2014	4,73,953.00
6	90/2014	5000260/25-03-2014	13,20,815.00
7	91/2014	5163197/10-04-2014	59,335.00
8	92/2014	5206503/15-04-2014	15,81,801.00
9	116/2014	5328211/28-04-2014	13,88,050.00
10	117/2014	5433023/08-05-2014	10,14,437.00
11	126/2014	5587098/23-05-2014	14,66,875.00
12	127/2014	5206535/15-04-2014	15,81,801.00
13	128/2014	5109055/04-04-2014	13,19,037.00
14	129/2014	5441876/09-05-2014	4,03,670.00
15	170/2014	6060421/08-07-2014	3,15,562.00
16	171/2014	6100537/15-07-2014	1,75,186.00
17	172/2014	6100551/15-07-2014	1,51,730.00
18	173/2014	6161379/18-07-2014	12,77,161.00

The facts in brief are that the appellant is engaged in import and trading of various goods used in ceramic industry. The appellant has filed the aforesaid appeals requesting to modify the assessment orders of the assessing authority in respect of the Bills of Entries in the Table above. The assessing authority had assessed the said Bills of Entries by classifying the imported goods under CTSH 32151190 instead of CTSH 32071090.

Being aggrieved with the impugned assessment orders the appellant filed the appeals contending before Commissioner (Appeals), inter alia, that:

- The assessment orders are issued in violation of principles of natural justice.

- The change of classification of the product from CTH 3207 to CTH 3215 is based on test result of the imported goods as the CRCL New Delhi is silent on the query as to whether the goods are ceramic pigment or ink: that just because the goods is used through ink jet printer, it is ridiculous to held that the same is not ceramic pigment but ink; that the chemical examiner failed to convey the exact properties of the goods in terms of classification under the Customs Tariff Act, 1975 read with HSN and Explanatory notes.

- The appellant submitted the extracts of the test result dated 28.05.2013 titled as "European Community Binding Tariff Information". The appellant relied upon the decisions of (i) S. R. FOILS & TISSUES LTD V/s. COMMSIONER OF CENTRAL EXCISE, JAIPUR 2013 565) Tri-Del) (i) HINDALCO INDUSTRIES LTD V/S COMMISSIONER OF CENTRAL EXCISE. VAPI-2009 (237) ELT 588 (Tri. Ahmd); that the test report of Madrid, Spain speaks that the goods merit classification under CTH 3207 and not under CTH 3215: the appellant relied upon the decisions of MAGUS METALS (P) LTD V/s. COMMISSIONER OF CUS. HYDERABAD/CHENNAI-2005(187) ELT 73 (Tri- Bang).

- . When the classification is disputed, the same is decided with the help of 'Explanatory Notes' in 'Harmonized Commodity Description and Coding System'.

- The goods under CTH 3207.1020, 3207.1030 and 3207.1040 are related to vitrified tiles or vitrified industry, whereas goods under CTH 3215 are related to ink of general use: that if the product is in liquid form, it falls under CTH 3215 is absurd.

- The department did not respond to the request of appellant for retesting which is against the principle of natural just as held in the case of YORK EXPORTS V/S. COMMISSIONER OF CUS. (EXPORT). MUMBAI-2004 (169) ELT 175 (Tri-Mumbai).

- The result of both the test reports of Customs House Laboratory, Kandia and CRCL, New Delhi are contradictory: that the method of resting the sample is vital and none of the test report mentions the method of testing. The appellant relied in the case of ADANI EXPORTS LTD V/S. CUMMR OF CUS., JAMNAGAR 2010 (249) ELT 93 Tri-Ahmd.) () COMMR. OF CUS (P). AHMEDABAD V/S. RAJKOT ENGINEERING ASSOCIATION 2000(123) ELT 968 (TRI) () SANDUR MANGANESE & IRON ORES LTD. V/S. COMMISSIONER OF CUS, GOA - 2007 (218) ELT 291 (Tri. Mumbai) (iv) SAIWAL CHEMICALS VIS COMMISSIONER OF C. EX. ALLAHABAD-2010 (261) ELT 315 (T-De v) AVR CHEMICALS (P) LTD: V/S. COMMR. OF C. EX., GUNTUR - 2003 (160) ELT 615 (Tri-Bang).

- The DRI has misinterpreted the tariff description vis-à-vis explanatory notes and GRI: that when the tariff description and explanatory notes categorically classifies the product being used in ceramic industry for printing under CTH 3207, there is no need to take shelter of CTH 3215 to classify the same as ink of general use: the appellant mentioned 3 of General Rules for the interpretation, which provides that CTH 3207 is more specific description that CTH 3215.

- The appellant prays that the assessment orders may be quashed.

That the Department has assessed the goods on the basis of test report of CRCL. Delhi, that the re-testing was not allowed: that DRI has not specifically asked the testing authority to test whether the item is ceramic pigment or printing ink: that the goods are correctly classified in CTH 32071090 and by virtue of Notification No. 12/2012 Cus. dated 17.03.2012.

the duty is chargeable @ 7.5%. He cited various judgments. Commissioner (Appeals) after hearing passed the following order:

"I have gone through the appeal memoranda, case laws cited and records of personal hearing.

The subject of dispute is classification. I find that the appellant had sought classification of impugned goods under CTH 32071090 whereas the assessing authority has assessed the goods under CTH 32151190. The appellant contended that they had correctly classified the goods under CTH 32071090 and the said goods are chargeable to duty @ 7.5% by virtue of Notification No. 12/2012 Cus. dated 17.03.2012.

Chapter heading 3215 covers goods of description as given below:

(i) 3215 Printing ink, writing or drawing ink and other inks, whether or not concentrated or solid.

Printing ink.

3215 11- Black Kg. 10%

32151190-- Others Kg. 10%

3215 19-- Other Kg. 10%

Chapter heading 3207 covers goods of description as given below:

3207 Prepared pigments, prepared opacifiers and prepared colours, vitrifiable enamels and glazes, engobes (slips). liquidlustres and similar preparations, of a kind used in the ceramic enamelling or glass Industry: glass frit and other glass. In the form of powder, granules or flakes.

320710 Prepared pigments, prepared opacifiers, prepared colours and similar preparations

32071010- Prepared organic dye-stuff pigments, dry kg. 10%

32071020- Prepared organic dye-stuff pigments, paste kg. 10%

32071030- Prepared inorganic pigments Kg. 10%

32071040- Prepared opacifiers prepared colours and

similar preparation Kg. 10%

32071090-Other Kg. 10%

The appellant has vehemently argued that the goods in question cannot be called printing ink at all as the CRCL, New Delhi is silent on the query as to whether the goods are ceramic pigment or ink that if the goods are used through ink jet printer, it cannot be called an ink that the chemical examiner failed to convey the exact properties of the goods. I find that inks such as printing ink drawing ink, witting Ink and other inks are specifically class oble under CTH 3215. The precise wordings of CTH 3215 are "Printing Ink, writing cr drawing ink and other Inks whether of not concentrated or solid, I find that the representative sample was sent to the Central Revenues Control Laboratory New Delhi (CRCL) to ascertain whether the product was pigment or ink. The chemical examiner vide report dated 17.02.2014 opined that "The sample is in the form of greyish black coloured thick liquid. ita a preparation based on Glycolic bodies phthalate fatty matter and inorganic coloring matter"

NVR (by wt) 96.6 (Ninety six decimal six)
Ash content by wt-35.3 (thaty five decimol three.

Note: (i) Above analytical finding reveals that such composition finds mention fo be used as printing ink. Literature evidence reveals that such ink can be used in inkjet pointer on surface having clay coating However, actual use of the sample may be ascertained) No reference for plant ceramic pigment Black C-NE 6112 available here in the standard iterature

The CRCL New Dei confirmed that the imported goods are printing ink which could be used in inkjet Printer on surface having clay coating in view of this, I find that the subject goods are covered under the head Printing, willing drawing ink and other ints, whether or not concentrated or solid of CT 3213 of under CTH 3207 for Prepared pigments, prepared opacifiers, prepred and similar preparation. Further, the composition of the imported goods ayced by CRCL New Delhi is matched with the basic composition of the ng mas as explained in the Explanatory Notes to Harmonized Commodity description under Chapter Sub Heading 3215 and showed mat the impugned goods were similar in composition *to that of ines i find that the compouton of the goods does not match with the composition of the goods covered under Explanatory Notes to Harmonized Commodity description under Chapter Sub Heading 3207. Both the Explanatory notes are under:*

CTH 3215

"Printing inks (or colours) are pastes of varying consistency, obtained by mixing a finely divided black or coloured pigment with a vehicle. The pigment is usually carbon black for black inks and may be organic or inorganic for coloured inks. The vehicle consists of either natural resins or synthetic polymers, dispersed in oils or dissolved in solvents, and contains a small quantity of additives to impart desired functional properties".

CTH 3207

"Prepared pigments, prepared opacifiers and prepared colours are dry mixtures formed by the heat treatment of oxides (of antimony, silver, arsenic. copper. chromium, cobalt, etc.) or salts (fluorides, phosphates, etc.) with or without fluxes or other substances, and are fired at high temperatures, generally above 300 "C. after application. The goods are used to produce a coloured or opaque surface in the course of ceramic firing. They may be incorporated in the glaze or enamel, or be applied as a coating before glazing.

The test report of the chemical examiner, CRCL, New Delhi has confirmed that the impugned goods is a preparation based on glycolic bodies, phthalate, fatty matter and inorganic coloring matter. On the basis of confirmation of the chemical examiner. the goods imported by the appellant are covered under Printing Inks described under Explanatory Notes of CTH 3215. Hence, I do not find any substance in the contention of the appellant.

2. The Advocate for the appellants while pleading the case placed reliance on European Community ruling by way of Binding Tariff Information dated 30.04.2013, which is reproduced below:

European Community . Binding Tariff Information BTI

1	1. Competent Customs Authority Customs and Duty Department Avenida del Llano Castellano 17 28071 Madrid	2. BTI Reference Number ES -2013-000305-0077/13
Copy for the registered holder	3. Registered Holder (full name and address) Confidential Innovaciones Técnicas Aplicadas a Cerámicas Avanzadas, S.A.U. Partida Rambleta s/n 12191 Pobla Tomesa (Castellón) Telephone nº: 964 657 800 Fax number: 964 657 802	4. Date of start of validity April 30th, 2013
	Important Note Notwithstanding any provisions contained in sections 4 and 5 of article 12 of Regulation (EEC) nº 2,913/92 of the Council, this BTI will be valid for 6 years counted from the date of the start of its validity. The information furnished will be recorded on a database held by the Commission of the European Communities for the purposes foreseen in Regulation (EEC) nº 2,454/93 of the Commission. The details of the BTI, including any photograph(s), sketch(es), leaflet(s), etc., except for the details listed in boxes 3 and 8 may be disseminated over the Internet. The registered holder is entitled to appeal against this BTI.	5. Date and reference of the request February 13th, 2013 ES 0077/13-45600261/13
1		6. Classification of the merchandise in the tariff nomenclature 3207300090*************

7. Description of the merchandise

Suspension of from 30 to 75% of inorganic pigments in one or more organic solvents (20 to 60%), sometimes with addition of a compound to make both phases compatible, for industrial use on ceramics in digital applications with Ink-Jet machines, similar to printers, but adapted for use with ceramics on an industrial scale. Drying occurs after baking, with the liquid fraction disappearing and only the pigments remaining behind.

Presented in jerry cans with a 5 litre capacity.

[Stamp:] Customs and Duty Department
Subdirectorate General for Customs Management
May 8th, 2013
Reference: [blank]
RGS: 87975/13

8. Trade name and complementary information Confidential

ESMALGLASS-ITACA HCR Inkjet Inks.

FELIPE BLASCO
TRADUCTOR JURADO DE INGLÉS
MADRID

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9. Reasons for classification of the merchandise

RGI 1 and 6

Note 3 in Chapter 32

Text o[illegible] codes in NC 3207 and 3207.30.00. TARIC Code: 3207.30.00.90

Due t[illegible] baking or calcining process to which it is subjected as an inherent part of cerami[illegible] manufacturing, this suspension cannot be classified as ink under heading 32.15.

It is a [illegible]aration similar to liquid glazes used for the decoration of ceramic and glass [illegible]ts. Please refer to the explanatory notes in the Harmonized System for headi[illegible]207, section 4.

This [illegible]s issued on the basis of the following elements supplied by the applicant:

Desc[illegible]ions [X] Leaflets [X] Photos [ ] Samples [ ] Others [ ]
Place [illegible]ADRID Signature: [Illegible signature] [Stamp:] Deputy
Date: [illegible]pril 30th, 2013 [Stamp:] Director General for Management
María Luisa GONZÁLEZ ANDREU

[The revers[illegible] the page has an ink stamp with the following text:]

An a[illegible]l may be lodged with this same department against the present Resolution [illegible]hin the term of FIFTEEN DAYS counted from its notification, as foreseen in [illegible]ticle 243.2 a) of the Community Customs Code Regulation (EEC) n° 2,913/19[illegible] of the Council, as a preliminary step, where appropriate, to any economic-a[illegible]nistrative complaint that may be lodged before the Central Economic-Administra[illegible] Court.

I, In[illegible]e Blasco, Sworn Translator / Interpreter c[illegible]tioned by the Ministry of Foreign Affai[illegible] hereby CERTIFY that the foregoing is a [illegible] and correct translation into English of the original text in Spanish.

Madrid, May 28, 2013.

Doña Inés Felipe Blasco, Traductora - Intérprete Jurada de Inglés, certifica que lo que antecede es traducción fiel y completa al Inglés de un documento redactado en Español.

Madrid, a 28 de mayo de 2013.

INES FELIPE BLASCO
C/ General Yagüe, 4
28020 Madrid
TRADUCTOR JURADO DE INGLÉS

2.1 He emphasized that the product by the ruling was classified under 3207 by WCO and such ruling have great value by virtue of decision in the case of Commissioner of Central Excise Pune-1 Vs. Telco Ltd as reported in 2002 (143) ELT 548 (Tri.-Mum.). The point of emphasize was that pigments continue to be pigments even in suspension form with one or more organic solvents or addition of any compound that they amend for industrial use on Ceramics and digital application, or similarly to printer ink adapted for use the ceramic.

2.2 He further relied upon HSN explanatory notes to emphasize that prepared pigments or prepared colour of a kind use of ceramic of Glass frit continue to be pigments falling under chapter 32.07.

2.3 The Learned AR relied upon the order of lower authorities emphasize the product is classifiable as printing ink under tariff item 3215 as the same is nothing but a printing ink and the goods are required to be classified as they are presented before the customs that the goods are nothing but ink of jack printer are classifiable as such under chapter 3215.

2.4 The Learned Advocate for the party points out that even CBEC has accepted the aforesaid clarification of WCO as is visible from para 34-35 of order in original no AHM/CUSTM-000-COM-004-17-18 dated 28.09.2017, as reproduced below:

> *"34. It is of equal importance and relevant to record it here that the clarification of WCO was brought to light by the replies of the importer and other notices Thus, after a request in this regard was made, the Chief Commissioner under a communication issued from F No VIII/48-10/Tech/CCO/2017 on 3.2.2017, made a reference to the Joint Secretary (Customs), CBEC, New Delhi as to whether the clarification issued by the Juridical Body of the Harmonized Systems of Nomenclature was correct.*
>
> *34.1 In response to such reference, the Joint Secretary (Customs), CBEC, New Delhi under their communication No 528/14/2017-STO(TU) dated 10.4.2017 has enclosed the decision taken by the Harmonized System Committee in their 58 session The decision made under communication No Annex H/15 to Doc NC2304E1b(HSC/58/Oct 2016) has already been reproduced in the para above.*

34.2 It was further informed by the CBEC that the classification dispute of ceramic ink for inkjet technology was decided during the 58th session of the HS committee, it was decided that the product would merit classification under sub-heading 3207 10. It has also been mentioned that the issue had been examined and that ceramic inks are appropriately classifiable under CTH 3207.10.

35. the decision of the Harmonized System Committee endorsed by Board leaves no scope for any ambiguity on the matter. It is quite clear that the disputed goods were ceramic inks and used in digital inkjet printing machines for printing on ceramic tiles Accordingly, the decision of the Harmonized System Committee taken in its 58" session on the classification of such printing inks under CTH 3207.10, as accepted by the CBEC is binding on me. I, therefore, hold that the goods imported by the importer fall under CTH 3207.10, as claimed by the importer: Subsequently, the entire set of allegations made in the SCN dated 28.1.2014 read with the corrigendum dated 4.3.2015 issued by the Additional Director General, Directorate of Revenue Intelligence, Ahmedabad and SCN dated 11.09.2014 issued by the Joint Commissioner, Customs, Ahmedabad against all noticees, do not sustain and both the notices need to be dropped."

2.4 He emphasized that department having accepted the WCO clarification and even adjudicating authority in the aforesaid order having dropped the deferential duty proceedings, no discriminatory can be meted out to him.

3. Considered. In the instant case, we find that chapter 32 aligned with the HSN and there are no separate supplementary notes or headings in the aforesaid chapters. The WCO ruling as well the HSN therefore will have great pursusive value, specially when same has been accepted by the Indian custom authorities. As is evident from the acceptance of CBIC Ruling in the aforesaid order in original, which has at the instance of department been produced by the AR and its acceptance latter by the department is produced below:

F. No. 528/14/2017-STO (TU)
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Excise and Customs)

North Block, New Delhi
Dated: 10.04.2017

To

Shri Ajay Jain,
Chief Commissioner of Customs,
Ahmedabad

Sir,

Subject: Classification dispute in respect of ceramic ink- SCN issued by DRI- Clarification sought for- Regarding

Kindly refer to your office letter no. VIII/48-10/Tech/CCO/2017/7839 dated 03.02.2017 on the subject cited above.

2. In this regard it is informed that the classification dispute of ceramic ink for inkjet technology was decided during the 58th session of HS Committee. It was decided that that the product merits classification in subheading 3207.10. The relevant discussion portion as well as classification opinion has been enclosed for ready reference.

3. The issue has been examined and it is informed that ceramic inks are appropriately classifiable under CTH 3207.10.

Yours faithfully

(L. Satya Srinivas)
JS (Customs)

3.1 We therefore are persuaded to go by WCO ruling in the instant case to hold that the Pigments for ceramic industry etc, capable of industrial use even on an ink jet processor will be considered as pigment only even if some solution is added to it and shall be classifiable under Tariff Heading 3207.

3.2 We are therefore inclined to accept the appeal and hold accordingly that the impugned product is correctly classifiable under tariff item 3207, as was initially classified by the party.

4. Appeal is allowed.

(Pronounced in the open Court on 12.09.2023)

(RAJU)
MEMBER (TECHNICAL)

(SOMESH ARORA)
MEMBER (JUDICIAL)

PALAK