Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO.3

Excise Appeal No. 10678 of 2016

(Arising out of OIO-VLD-EXCUS-000-COM-0013-15-16 dated 12/01/2016 passed by Commissioner of Central Excise, Customs and Service Tax-Valsad)

Aarti Industries Limited **.........Appellant**

71, UDYOG KSETRA, 2ND FLOOR, MULUND-GOREGAON LINK ROAD,
MULUND (WEST),MUMBAI-MAHARASTRA

VERSUS

C.C.E. & S.T., - Valsad **.........Respondent**

THIRD FLOOR, ADARASHDHAM BUILDING,
VAPI-DAMAN ROAD, VAPI, GUJARAT-396191

WITH

(i) Excise Appeal No. 10679 of 2016 (Atul Chauhan); (ii) Excise Appeal No. 10680 of 2016 (Kirit Ganpati Shastri); (iii) Excise Appeal No. 10681 of 2016 (Sudhakar Sadashiv Shetty) (iv) Excise Appeal No. 10682 of 2016 (K K S Babu) (v) Excise Appeal No. 10683 of 2016 (Aarti Industries Limited) (vi) Excise Appeal No. 10684 of 2016 (Aarti Industries Limited) (vii) Excise Appeal No. 10702 of 2016 (Manoj Chedda)

(Arising out of OIO-VLD-EXCUS-000-COM-0013-15-16 dated 12/01/2016 passed by Commissioner of Central Excise, Customs and Service Tax-Valsad)
(Arising out of OIO-VLD-EXCUS-000-COM-0014-15-16 dated 15/01/2016 passed by Commissioner of Central Excise, Customs and Service Tax-Valsad)
(Arising out of OIO-VLD-EXCUS-000-COM-0015-15-16 dated 15/01/2016 passed by Commissioner of Central Excise, Customs and Service Tax-Valsad)

APPEARANCE:

Shri Prasannan Namboordiri (Advocate) appeared for the Appellant
Shri Sharad Airan, Assistant Commissioner (AR) for the Respondent

CORAM: **HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR**
HON'BLE MEMBER (TECHNICAL), MR. RAJU

Final Order No. A/ 11085-11092 /2021

DATE OF HEARING: 05.03.2021
DATE OF DECISION: 05.03.2021

RAMESH NAIR

The issue involved in the present appeal is that whether Di Calcium Phosphate Animal Feed Grade manufactured by the appellant by using rock phosphate shall be classified under Chapter 2309 as declared by the appellant or under Chapter 2835 as claimed by the Revenue of the Central Excise Tariff Act, 1985.

2. On this issue, there is exemption Notification 4/2016-C.E. (N.T.) dated 12.02.2016 issued under Section 11C of Central Excise Act, 1944 which covers the period from 01.02.2008 to 01.02.2014. A regular Notification was also issued bearing No. 3/2014-C.E. dated 03.02.2014 which covers the period from 03.02.2014 onwards. However, the adjudicating authority has not considered both the notification which has an important bearing on this entire issue.

3. We had also considered the identical issue covering the same period and Notification in the matter of Panoli Intermediates India Pvt. Ltd., wherein vide Final Order No. A/11256/2020 dated 06.10.2020 matter was remanded to the adjudicating authority. Following the same decision passed by this Bench and considering the facts of the present case also, we are of the view that this matter also should be remanded for reconsideration by the adjudicating authority. Accordingly, impugned orders are set aside. Appeals are allowed by way of remand to the adjudicating authority.

4. As directed in the order of the Panoli Intermediates India Pvt. Ltd., in this case also, the adjudicating authority should preferably pass a de novo adjudication order within a period of three months from the date of this order.

(Dictated & Pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

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