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

REGIONAL BENCH - COURT NO. 3

EXCISE Appeal No. 11421 of 2016-DB

[Arising out of Order-in-Original/Appeal No VAD-EXCUS-001-APP-009-2016-17 dated 12.04.2016 passed by Commissioner of Central Excise and Service Tax-VADODARA-I]

Coromandel International Limited .... **Appellant**
Formerly Liberty Phosphate Ltd Plot No. 71/71a/72/73/74/83,
Gidc, Nandesari, VADODARA, GUJARAT

VERSUS

Commissioner of Central Excise & ST, Vadodara .... **Respondent**
1st Floor, Central Excise Building,
Race Course Circle,
Vadodara, Gujarat-390007

APPEARANCE :

Shri R.K. Tomar, Advocate for the Appellant
Shri Rajesh K Agarwal, Superintendent (AR) for the Respondent

CORAM: HON'BLE MR. RAMESH NAIR, MEMBER (JUDICIAL)
HON'BLE MR. C.L. MAHAR, MEMBER (TECHNICAL)

DATE OF HEARING : 06.02.2024
DATE OF DECISION : 15.02.2024

FINAL ORDER NO. 10413/2024

RAMESH NAIR :

The short issue involved in the present case is that whether the appellant is eligible for exemption Notification No. 12/2012-CE dated 17.03.2012 which provides exemption to material namely Sulfuric Acid mentioned at Sl.86 of the said Notification. The appellant's product is spent sulphuric acid which is generated during manufacture of single super phosphate. The case of the department is that the exemption is available to sulphuric acid and the appellant have cleared the goods namely spent sulphuric acid, therefore, exemption available for sulphuric acid shall not apply to goods namely spent sulphuric acid.

2. Shri R.K Tomar, Learned Counsel appearing on behalf of the appellant at the outset submits that spent sulphuric acid is also a sulphuric acid, therefore, merely the nomenclature of the product used by the appellant is spent sulphuric acid therefore, the character of the product does not change from sulphuric acid to any other product. Accordingly, the exemption was wrongly denied to the appellant. He submits that in various judgments it was held that the spent sulphuric acid is sulphuric acid only falling under tariff heading 2807. He placed reliance on the following judgments:-

(a) Collector of Central Excise vs. KT Chemicas-1999 (113) ELT 689(Tri.- LB)

(b) Collector of Central Excise vs. Nirma – 2002 (146) ELT 485 (SC)

3. Shri R.K Agarwal, learned Superintendent (AR) appearing on behalf of the Revenue reiterates the finding of the impugned order.

4. We have carefully considered the submission made by both sides and perused the records. We find that the revenue has denied the exemption notification to the appellant in respect of spent sulphuric acid only on the ground that the exemption is available to the sulphuric acid whereas the appellant’s product is spent sulphuric acid. We find that the spent sulphuric acid also classifiable under 2807 where under the sulphuric acid falls as held in the judgment of KT Chemicals and Nirma(Supra) as cited by the appellant. We find that the spent sulphuric acid is not different from the sulphuric acid and the application for manufacture of fertilizer is same in respect of sulphuric acid as well as spent sulphuric acid, therefore, in our considered view, spent sulphuric acid is nothing but sulphuric acid. Accordingly, the exemption on sulphuric acid is also available to the appellant’s good namely spent sulphuric acid. Therefore, we are of the

considered view that spent sulphuric acid being a sulphuric acid and not different from it, the exemption Notification No. 12/2012-CE is clearly applicable in respect of spent sulphuric acid. Therefore, the demand is not sustainable.

5. Hence, the impugned order is set aside, appeal is allowed.

(Pronounced in the open court on 15.02.2024*)*

(Ramesh Nair)
Member (Judicial)

(C L Mahar)
Member (Technical)

KL