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

REGIONAL BENCH- COURT NO. 3

CUSTOMS Appeal No. 10773 of 2021-DB
(Arising out of OIO-KND-CUSTM-000-COM-07-19-20 Dated-30.07.2019 passed by Commissioner of Customs -Kandla)

POLYCAB WIRES PVT LTD ....**Appellant**
POLYCAB INDIA LTD 74-7 TO 11
DAMAN-DAMAN-GUJARAT

VERSUS

C.C.,-KANDLA ....**Respondent**
CUSTOM HOUSE,
NEAR BALAJI TEMPLE,
KANDLA-GUJARAT

APPEARANCE:
Shri Manish Jain, Advocate appeared for the Appellant
Shri Anand Kumar, Superintendent (Authorized Representative) for the Respondent

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

Final Order No. A/ 10478 /2024

DATE OF HEARING:23.02.2024
DATE OF DECISION:23.02.2024

RAJU

Polycab-wires are in appeal against rejection of declared classification.

2. Learned counsel for the appellant submits that the appellants had declared that they had imported rods. The documents filed by them described that the goods are in the form of coil. Learned Counsel for the appellant is not pressing on the ground of classification. He pointed out that the entire dispute hinges on the facts that the goods have been imported in form of Coils and as per the Chapter note (d) and (f) of Chapter 74 of Customs Tariff, the distinction between wire and rod is the form in which the goods are imported. He pointed out that they have been declaring the fact that the goods are in coil form in all their documents. He pointed out that in commercial parlance, the products imported by them are known as rods. He pressed that they have no intention to evade any duty and they have declared everything faithfully,

classification is a matter of interpretation. He pointed out that even the Order-in-Original in para 8.12 records as follows:

> "8.12 Thus, considering the altogether, I am of the opinion that since the goods imported are in coil form and the same are also mentioned in import related documents i.e. foreign suppliers invoice, Certificate of Origin etc. the said goods are correctly classifiable under Tariff item 74081190."

2. He pointed out that they are entitled to relief from penalty as there was no intention to evade in any manner. The appellant has also paid penalty. They are seeking relief in respect of penalty only.

3. Learned AR relies on the impugned order.

4. We have considered the rival submissions. We find that the appellants are conceding the case on issue of classification. They have already discharged duty and as well as penalty. They are seeking relief in respect of the penalty only. From the facts of the case it is apparent that the appellants have declared in their documents the fact that the goods were imported in the shape of coils. It has been recorded in the Order-In-Original as well in para 8.12 reproduced above in Counsel's arguments. The only reason for change of classification is the chapter note (d) and (f) of Chapter 74 of Custom Tariff. The said notes read as under:

> "(d) Bars and rods
>
> Rolled, extruded, drawn or forged products, not in coils, which have a uniform solid cross-section along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons (including "flattened circles" and "modified rectangles", of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel). Products with a rectangular (including square), triangular or polygonal cross-section may have corners rounded along their whole length. The thickness of such products which have a rectangular (including "modified rectangular") cross-section exceeds one-tenth of the width. The expression also covers cast or sintered products, of the same forms and dimensions, which have been subsequently worked after production (otherwise than by simple trimming or de-scaling), provided that they have not thereby assumed the character of articles or products of other headings.
>
> Wire-bars and billets with their ends tapered or otherwise worked simply to facilitate their entry into machines for converting them into, for example, drawing stock (wire-rod) or tubes, are however to be taken to be unwrought copper of heading 7403.

> (f) Wire
>
> Rolled, extruded or drawn products, in coils, which have a uniform solid cross-section along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons (including "flattened circles" and "modified rectangles", of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel). Products with a rectangular (including square), triangular or polygonal cross-section may have corners rounded along their whole length. The thickness of such products which have a rectangular (including "modified rectangular") cross-section exceeds one-tenth of the width."

It clearly lays down that item imported as Bar and Rods should not be in shape of coils. The appellants has not suppressed any facts. In matters of classification where facts have been correctly disclosed extend period of limitation cannot be involved.

5. From that it is clear that there was no suppression of any kind and in these circumstances, the invocation of a longer period of limitation cannot be justified. The notice is clearly barred by limitation.

6. The appeal is consequently allowed.

(Dictated and Pronounced in the open court)

(RAJU)
MEMBER (TECHNICAL)

(SOMESH ARORA)
MEMBER (JUDICIAL)

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