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

REGIONAL BENCH-COURT NO. 3

Excise Appeal No. 10203 of 2017 - DB

(Arising out of OIO-VLD-EXCUS-000-COM-024-16-17 dated 23/09/2016 passed by Principle Commissioner Customs, Excise and Service Tax-Valsad)

PRINCIPAL COMMISSIONER, **........Appellant**
CGST, CUSTOMS & CENTRAL EXCISE - Valsad
Third Floor, Adarashdham Building,
Vapi-Daman Road, Vapi, Gujarat
Gujarat-396191

VERSUS

Shiv Om Packaging **......Respondent**
Having Registered Office AtBalda Industrial Park,
Survey No. 305,
Plot No. B-7 & 8, Pardi,
VALSAD,GUJARAT

APPEARANCE:
Shri Rajesh K Agarwal, Superintendent (AR), Appeared for the Appellant
Shri Devashish K Trivedi, Advocate Appeared for the Respondent

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

Final Order No.12220/2024

DATE OF HEARING: 16.07.2024
DATE OF DECISION: 27.09.2024

RAMESH NAIR

The issue involved in the present case is that whether the corrugated board cleared by the respondent independently without corrugated box is classified under Tariff Item 48191090 and accordingly not eligible for exemption Notification No.04/2006-CE dated 01.03.2006 as claimed by the appellant treating the classification under 48191010 as corrugated cartons, boxes and cases. The adjudicating authority dropped the proceeding on the ground that even if the classification claimed by assessee is not acceptable, the same is correctly classified under 48081000, for this reason the demand under 48191090 as alleged in the show cause notice is not sustainable. Being aggrieved by the Order-In-Original Revenue filed the present appeal.

2. Shri Rajesh K Agarwal, Learned Superintendent (AR) appearing on behalf of the Revenue appellant submits that the commissioner has clearly erred in rejecting the classification of corrugated plates and partitions under

48191090 as proposed in the show cause notice whereas he ought to have upheld the charges and confirmed the Central Excise duty demand in the show cause notice along with the consequential interest and penalty.

3. Shri Devashish Trivedi, Learned Counsel, appearing on behalf of the Respondent submits that the corrugated plates of the board is nothing but a part of the corrugated box only and the same is used while packaging the goods in the corrugated box. Therefore, it is part and parcelof the corrugated boxes and correctly classified under 48191010. The appellant have rightly claimed the Exemption Notification No.04/2006-CE. He submits that even if the classification claimed by the appellant is not accepted and the corrugated plates of the board is treated as independent item in such case, it is correctly classified under 48081000 which attract the same rate of duty at which the appellant have discharged the said duty under 48191010. Therefore, no duty demand exists. The adjudicating authority has rightly decided the matter treating the corrugated paper and paper board under Tariff Item No.48081000.

4. We have carefully considered the submissions made by both the sides and perused the records. We find that firstly, the appellant have claimed the corrugated plates of the board cleared as such under the Tariff Item No.48191010 and availed the Exemption Notification No.04/2006-CE. The exemption entry reads as under:-

96E	481910	Cartons, boxes and cases, of corrugated paper or paperboard	4%	12]

As per the aforesaid entry goods falling under 481910 are exempted partially.Now the tariff entry under 4819 is as under:-

4819	Cartons, boxes and cases, of corrugated paper or paperboard: Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres; box files, letter trays, and similar articles, of paper or paperboard of a kind used in offices, shops or the like		
481910	cartons, boxes and cases, of corrugated paper and paperboard		
48191010	Boxes	kg.	10%
48191090	Other	kg.	10%
481920	Folding cartons, boxes and cases, of non-		

	corrugated paper and paperboard:		
48192010	Cartons, boxes, cases, intended for the packing of match sticks	kg.	Nil
48192020	Boxes	kg.	10%
48192090	Other	kg.	10%
48193000	Sacks and bags, having a base of a width of 40 cm or more.	kg.	10%
48194000	Other sacks and bags,including cones	kg.	10%
481950	Other packing containers, including record sleeves:		
48195010	Made of corrugated paper or paperboard	kg.	10%
48195090	Other	kg.	10%
48196000	Box files, letter trays, storage boxes and similar articles, of a kind used in offices, shops or the like	kg.	10%

From the above tariff entry, it can be seen that 481910 covers cartons, boxes and cases, of corrugated paper and paperboard, 48191010 covers boxes, 48191090 is other. However even 48191090 mentioned other but on reading entry under 481910 except boxes all other items such as cartons and cases of corrugated paper and paperboard falls under 48191090. When this be so then even though goods of 48191090are clearly covered under the exemption Notification No.04/2006-CE under entry No.96E. Therefore, firstly we are of the view that even if classification suggested by the Revenue under 48191090 is accepted then also the goods covered under that sub heading is covered under exemption. Without prejudice, we find that if the contention of the Revenue is accepted that corrugated paper and paper board is not covered under 48191010 the same will also not fall under 48191090. However, it is correctly classifiable under 4808 entry which reads as under:-

4808	Paper and paperboard, corrugated (with or without glued flat surface sheets), creped, crinkled, embossed or perforated, in rolls or sheets, other than paper of the kind described in heading 4803		
48081000	Corrugated paper and paperboard, whether or not perforated	kg.	10%
48082000	Sack kraft paper, creped or crinkled, whether or not embossed or perforated	kg.	10%
48083000	Other kraft paper, creped or crinkled, whether or not embossed or perforated	kg.	10%
48089000	Other	kg.	10%

From the above entry this is absolutely clear that even if the corrugated sheet as in the appellant case cleared without having boxes, the same is appropriately classifiable under 48081000. The rate of duty on the goods under 48081000 as well as under 48191010 read with Notification No.04/2006-CE are same during the relevant period and for this reason the adjudicating authority has rightly dropped the demand raised in the show cause notice. We agree with the adjudicating authority to classify the goods in question i.e. corrugated sheet, platecleared without corrugated boxes under 48081000.

5. Therefore, we do not find any infirmity in impugned order. Hence, the impugned order is upheld, Revenue's appeal is dismissed.

(Pronounced in the open court on 27.09.2024)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(C L MAHAR)
MEMBER (TECHNICAL)

Bharvi