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

REGIONAL BENCH- COURT NO.3

Customs Appeal No. 10096 of 2015
(Arising out of OIA-AMH-CUSTM-000-APP-309-14-15 dated 07/10/2014 passed by Commissioner of CUSTOMS-AHMEDABAD)

Netafim Irrigation India Pvt Ltd **......Appellant**
Plot No 268-270, 271 B,
Gidc Manjusar, Savli,
Vadodara, Gujarat

VERSUS

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

<u>WITH</u>

Customs Appeal No. 10307 of 2021
(Arising out of OIO-AHM-CUSTM-000-COM-015-20-21 dated 09/02/2021 passed by Commissioner of CUSTOMS-AHMEDABAD)

NETAFIM IRRIGATION INDIA PVT LTD **......Appellant**
Plot No 368-370 271-B Gidc Manjusar Savli
Vadodara
Vadodara, Gujarat

VERSUS

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

<u>APPEARANCE:</u>
Shri T.Vishwanathan & Shri Manish Jain, Advocates for the Appellant
Shri Ajay Jain, Special Counsel appeared for the Respondent

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

Final Order No . <u>A/ 11112 - 11113 /2022</u>

DATE OF HEARIN:27.07.2022
DATE OF DECISION:08.09.2022

<u>RAMESH NAIR</u>

The issue involved in the present case is that whether the parts of Drip Irrigation system are itself falling under the category of Drip Irrigation System and eligible for exemption Notification No. 50/2017-Cus dated 30.06.2017 and 1/2017-IT(Rate) dated 28.06.2017 in respect of IGST and in respect of appeal no. C/10096/2015 whether the same goods are eligible for exemption Notification No. 12/2012-Cus dated 17.03.2012. The entire case of the department is that the exemption entirely covers the Micro irrigation equipment which does not include the parts hence parts of irrigation equipment are not eligible for exemption as provided in the aforesaid notification.

2. Shri T. Vishwanathan and Shri Manish Jain, Learned Advocates appeared for the Appellant and argued in detail on the merit of the case. He also pointed out that on the very same issue the board has issued CBIC Circular No. 155/11/2021-GST dated 17.06.2021. He submits that the lower authorities had no occasion to consider the said circular. Therefore, he requested that the matter may be remanded to re-consider in the light of the said circular as well as all the points raised by the appellant.

3. On the other hand, Shri Ajay Jain, Learned Special Counsel appearing on behalf of the Revenue fairly concedes that if the matter is remanded Revenue has no objection. He also submitted a written brief dated 27.07.2022 which is taken on record.

4. We have carefully considered the submission made by both sides and perused the records. We find that the learned counsel is correct in his submission as much as Board Circular No. 155/11/2021-GST dated 17.06.2021 was issued after passing of the orders by the Lower Authorities. The lower authorities had no occasion to consider the circular. We find that the circular is very vital and it is on the same goods. Therefore, it has a strong bearing for deciding the present case. Accordingly, we are of the view that the Adjudicating Authority should re-look the entire case not only on the basis of the Circular No. 155/11/2021-GST dated 17.06.2021 but also on all the points raised by the appellant. Accordingly, we set aside the impugned order and remand the matter to the Adjudicating Authority for passing a fresh order. All the issues are kept open. Appeals are allowed by way of remand to the Adjudicating Authority.

(Pronounced in the open court on 08.09.2022)

RAMESH NAIR
MEMBER (JUDICIAL)

RAJU
MEMBER (TECHNICAL)

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