

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

REGIONAL BENCH- COURT NO. 3

Customs Appeal No. 10083 of 2019- DB

(Arising out of OIA-AHD-CUSTM-000-APP-141-18-19 dated 16.10.2018 passed by Commissioner (Appeals) - Ahmedabad)

Arpan Aeromatics

14, Maskati Market, Kalupur
Ahmedabad

.....Appellant

VERSUS

C.C. Ahmedabad

Custom House, Navrangpura,
Ahmedabad-Gujarat-380009

.....Respondent

APPEARANCE:

Shri K.J. Kinariwala, Consultant for the Appellant

Shri Sanjay Kumar, Superintendent (Authorised Representative) for the Respondent

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

FINAL ORDER NO. 12703 /2024

DATE OF HEARING: 15.10.2024

DATE OF DECISION: 14.11.2024

RAJU

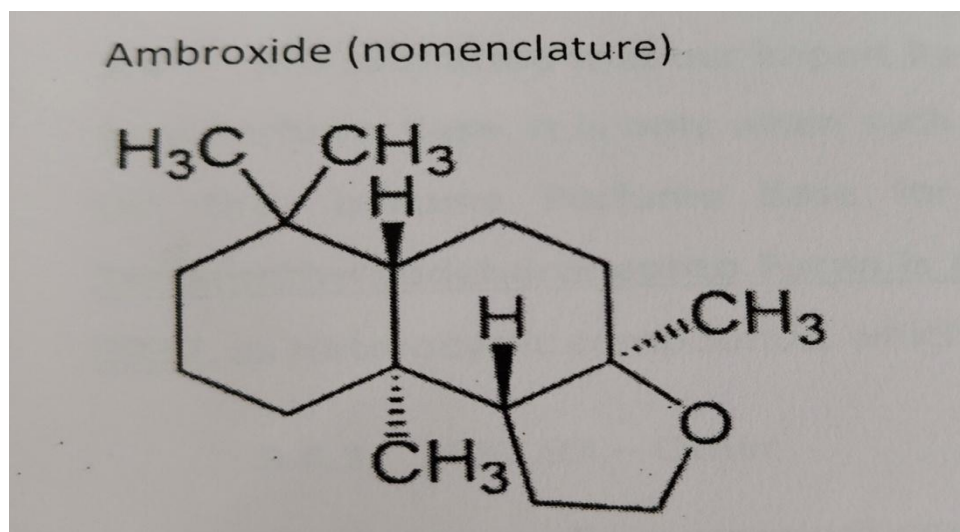
This appeal has been filed by M/s Arpan Aeromatics against rejection of classification claimed by the appellant in respect of goods imported by them.

2. Learned counsel for the appellant pointed out that they had imported goods known as Tetramethyldodehdro-naphto Furan (TF). Learned counsel pointed out that the goods imported by them are Aroma Chemicals which on their own cannot be called perfume base. He argued that when such aroma chemicals when blended or mixed with such essential oil they become perfume base for manufacture of synthetic perfumery compound which in term are used in manufacture of industrial fragrances. Learned counsel pointed out that what they import is pure aromatic chemical and after mixing the same with odoriferous substances, it becomes a base of perfume or synthetic perfume. He pointed out that the imported item does not contain alcohol nor are they solution in alcohol. Learned counsel pointed out that the chemical nomenclature is governed by a set of rules to generate systematic name for chemical compounds. The nomenclature most commonly used is one

created by International Union of Pure and Applied Chemistry (IUPAC). He pointed out that for each chemical there are following specifications:

- 1) CAS (Chemicals Abstract Service) No.
- 2) The Nomenclature
- 3) IUPAC

He pointed out that the nomenclature for the product imported by them is Ambarmor-X (being their trade name) i.e. Ambroxane/ Ambroxide. The chemical formula is as under:



2.1 Learned counsel further argued that the product TF is an organic chemical and specifically covered under Chapter Tariff Heading 2932 as Heterocyclic Compound. He relied on the extracts of HSN as under:

" 2932.99 -- Other

The heterocyclic compounds covered by this heading are:

(A) Compounds containing an unfused furan ring (whether or not hydrogenated) in the structure.

This part includes, inter alia:

*(1) **Tetrahydrofuran**. Colourless liquid.*

Cyclic hydrocarbons are compounds containing only carbon and hydrogen which have at least one ring in their structure. They can be classified in three categories:

- (A) Cyclanes and cyclenes.*
- (B) Cycloterpenes.*
- (C) Aromatic hydrocarbons*

*For example, **Tetrahydronaphthalene (tetralin) (C₁₀H₁₂)**, classified under this CTH is obtained by the catalytic hydrogenation of naphthalene, which has Carbon-Hydrogen Bond, as exists in organic chemicals."*

2.2 Learned counsel further argued that in para 2, para 8.1 and para 8.3 of the order-in-original, the imported items has been described as synthetic compound for manufacture of synthetic perfumery compound. In para 2 of the order-in-original the product 'TF' has been described as synthetic perfumery compound. He argued that this amounts to self

contradiction and lack of clarity on the part of the adjudicating authority. He further argued that appellate authority also has not given any clarity on this issue. Learned counsel further argued that both the lower authorities have observed that **'the chemical in its original form consist of various isomers and is in odoriferous substance'**. On that basis it was claimed to be a mixture. He pointed out that this is an incorrect understanding. Learned counsel argued that mixes of different isomers of some chemicals do not become different compounds and therefore. The product obtained by combining two or more isomers of same compound does not become a mixture.

2.3 Learned counsel further argued that the same product Ambermor has been classified under heading 2932 9900 in various Custom formations like Chennai Custom House, Nhava Sheva Custom House, Bombay Air Cargo, Chennai Air Cargo, Bangalore Air Cargo etc. under Chapter heading 2932 9900. A list of imports made at those formations was submitted by the appellant. Learned counsel further argued that merely because the goods are used for a particular purpose does not impact the classification of the goods. A classification of goods would depend solely on the nature of the goods and the relevant provisions of the customs tariff. He further pointed out that no chemical examination was conducted.

3. Learned Authorised Representative relies on the impugned order.

4. We have carefully considered the rival submissions. The show cause notice in para 2 enumerates the reasons for rejecting the classification claimed by the appellant in following terms:

"2. It was noticed from the import documents, such as item catalogue, certificate of analysis, material safety data sheet, etc. that the said imported goods are known as Tetramethyldodehydronaphto Furan, which is a synthetic compound and the same was to be used as a raw material for manufacturing synthetic perfumery compounds and in fragrances and flavor formulas. The end use of the goods appears to be used for manufacturing of industrial fragrances for Agarbatti, Soap etc. It appears that the said imported goods are appropriately classifiable as synthetic perfumery compounds under CTH 33029011 leviable to BCD @ 10%, and hence the importer had misclassified the same as organic chemicals under CTH 29329900 and/or 29142990, 29219000, 29153990, 29182990 etc with lower rate of BCD."

From the above it is seen that the sole reason given in the show cause notice for seeking change in classification is that the same are used as raw material for manufacturing synthetic perfumery compound and in fragrances and in flavour formulas. It is seen that the said ground is totally untenable. The classification has to be determined in terms of description in various tariff headings read with chapter and section notes read with rules of interpretation. It is seen that no reliance has been

placed either on the description in the tariff heading or on chapter and section notes or on the rules of interpretation.

5. The Rules of interpretation are very clear that in so far as the goods are specifically covered under specific heading read with the chapter notes and section notes then the classification is to be made in the said heading. The Order-in-original comes to a conclusion that goods are a mixture with a basis of ode-ferrous substances and is used as raw material in industry and therefore it would be classifiable under heading 33.02 of the Custom Tariff. Reliance has been placed on Chapter Note 1(b) and 1(e) to Chapter 29 which reads as under:

“1(b) Mixtures of two or more isomers of the same organic compound (whether or not containing impurities), except mixtures of acyclic hydrocarbon isomers (other than stereoisomers), whether or not saturated (Chapter 27);

...

1(e) The products mentioned in (a), (b) or (c) above dissolved in other solvents provided that the solution constitutes a normal and necessary method of putting up these products adopted solely for reasons of safety or for transport and that the solvent does not render the product particularly suitable for specific use rather than for general use;”

It is seen that note 1(b) prescribes that products containing two or more isomers of same compound remain classifiable in Chapter 29 itself. The product is admittedly a mixture of two isomers and thus classifiable in Chapter 29 in term of Chapter Note 1(b).

6. The impugned order relies on Chapter Note 1(e) to Chapter 29 to assert that when a product mentioned in clause 1(a), 1(b) or 1(c) is dissolved in other solvents making it suitable for only a specific use then it can be taken out of chapter 29. We find that in the instant case there is no evidence produced that any solvent was part of imported product. Moreover even if it contains any solvent, no evidence has been produced that it makes suitable only for a single use. Thus Chapter Note 1(e) is not applicable to the facts of the case.

7. In view of above, we do not find any merit in impugned order. The same is set aside and appeal is allowed.

(Order pronounced in the open court on 14.11.2024)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)