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

REGIONAL BENCH-COURT NO.3

CUSTOMS Appeal No. 10682 of 2024-DB

(Arising out of Order in Original JAM-CUSTM-PRV-COM-006-24-25 dated 04/10/2024 passed by the Commissioner of Customs (Preventive), Jamnagar)

MATCH GRAPHICS PVT LTD ....**Appellant**
497A, 498A, 419A, Radhe Industrial Estate,
Near Crown Laminates, Tajpur Road,
Changodar, Ahmedabad - 382415

VERSUS

Commissioner of CUSTOMS –
Customs (P) Jamnagar ....**Respondent**
Seema Shulk Bhavan, Rajkot- Jamnagar Highway,
Near Victoria Bridge, Jamnagar-361001

WITH

CUSTOMS Appeal No. 10692 of 2024-DB

(Arising out of Order in Original JAM-CUSTM-PRV-COM-006-24-25 dated 04/10/2024 passed by the Commissioner of Customs (Preventive), Jamnagar)

SHRI ANAND AGRAWAL ....**Appellant**
Director of M/s. Match Graphics Pvt. Ltd.
497A, 498A, 419A, Radhe Industrial Estate,
Near Crown Laminates, Tajpur Road,
Changodar, Ahmedabad - 382415

VERSUS

Commissioner of CUSTOMS –
Customs (P) Jamnagar ....**Respondent**
Seema Shulk Bhavan, Rajkot- Jamnagar Highway,
Near Victoria Bridge, Jamnagar-361001

AND

CUSTOMS Appeal No. 10693 of 2024-DB

(Arising out of Order in Original JAM-CUSTM-PRV-COM-006-24-25 dated 04/10/2024 passed by the Commissioner of Customs (Preventive), Jamnagar)

SHRI SARWAN KUMAR SARAF ....**Appellant**
Proprietor of M/s. Saraf Sales Corporation,
Broker of M/s. Match Graphics Pvt. Ltd.
101, Panchwati Corporative Society,
Hanuman Road, Ville Parle East,
Mumbai- 400 063

VERSUS

Commissioner of CUSTOMS –
Customs (P) Jamnagar ....**Respondent**
Seema Shulk Bhavan, Rajkot- Jamnagar Highway,
Near Victoria Bridge, Jamnagar-361001

APPEARANCE:
Shri Manish Jain, Advocate appeared for the Appellant
Shri Girish Nair, Assistant Commissioner (AR) appeared for the Respondent

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

Final Order No.12740-12742/2024

DATE OF HEARING: 13.11.2024
DATE OF DECISION: 19.11.2024

RAMESH NAIR

1. This appeal has been filed against the impugned Order-In-Original No. JAM-CUSTM-PRV-COM-006-24-25 dated 04.10.2024 passed by the Commissioner of Customs, Jamnagar by M/s. Match Graphics Private Limited (Appellant company), Shri Anand Agrawal, Director of Appellant Company and Shri Sarwan Kumar Saraf, Proprietor of M/s. Saraf Sales Corporation Broker/Agent of appellant company.

1.1 Briefly stated facts of the case are that the Appellant company is engaged in the manufacturing of Décor Paper which is used for enhancing appearance and durability of the surface. Shri Anand Agrawal is Director of Appellant Company and Shri Sarwan Kumar Saraf, Proprietor of M/s. Saraf Sales Corporation, Broker/Agent of Appellant Company. The major raw material for manufacturing of Décor paper is Uncoated printing paper/ Base Paper which are imported from China as well as procured from domestic markets. The Appellant imported the subject goods from M/s. King decor by *interalia* paying antidumping duty in terms of Sr. No. 1 of Notification No. 77/2021– Customs (ADD) dated 27.12.2021 and thereby discharging the Anti-Dumping Duty at the rate of $ 116 PMT as M/s. King decor is manufacturer of subject goods. Appellants issued Purchase Orders to M/s. King decor and all the sales invoices of subject goods are issued by M/s King decor to appellants. Full consideration for such imported goods have been paid to M/s King decor through normal banking channel. It is alleged by department in the SCN that invoices issued by M/s King decor and purchase orders contained code being "XH" which stands for goods manufactured by M/s. Xianhe Co. Ltd., Zhejiang, China, whereas item codes of goods manufactured by M/s. King decor started with alphabets "KD". That imported goods had the name of M/s. Xianhe Co. Ltd., Zhejiang, China on the packing material and no markings/labelling/tapes or code of M/s. King decor, was found on the impugned goods. Department has also relied upon various emails sent by appellants to its domestic buyers wherein price was increased by appellants on the ground that anti-dumping duty is imposed. Based on above it is alleged that imported goods were manufactured by M/s. Xianhe Co. Ltd., Zhejiang, China which attracts antidumping duty at the higher rate of 542 USD/ PMT as per Sr. No. 4 of Notification No.77/2021-Customs (ADD) dated 27.12.2021. For imposing penalties on individuals, it is alleged that the Shri Anand Agrawal, Director of

Appellant Company, along with Shri Sarwan Kumar Saraf, Proprietor of M/s. Saraf Sales Corporation Broker/Agent Appellant Company, arranged the documents namely commercial invoice and packing list purported to be issued by M/s. King decor and claimed to be manufactured by M/s. Kingdecor. Thus, they have evaded the antidumping duty by way of mis-declaring the name of producer/manufacturer of subject goods.

1.2 Ld. Commissioner of customs in the impugned order has held at para 34.8 of the adjudication order dated 4.10.2024 that subject goods were manufactured by M/s King decor with XH series on behalf of Xianhe and exported to Appellants. It is further observed at para 34.9 of the adjudication order that M/s King decor was doing job work on behalf of M/s Xianhe Co. Ltd. Ld. Commissioner vide adjudication order confirmed applicability of antidumping duty at the higher rate of 542 USD/PMT in terms of Sr. No. 4 of Notification No.77/2021-Customs (ADD) dated 27.12.2021. He imposed redemption fine and penalties on appellants. Aggrieved by the said order, the appellants are in appeal before this Tribunal.

2. Shri Manish Jain learned advocate appearing on behalf of the appellants submits that Ld. Commissioner of customs after holding that subject goods are manufactured by M/s King decor ought to have dropped the proceeding initiated by SCN as applicable rate of antidumping duty is 116 USD / PMT for imported goods produced by the M/s. King decor.

2.1 He submits that without prejudice, Sr. No.1 to the Notification No. 77/2021-Cus (ADD) would be applicable in those cases also where goods are manufactured by M/s Kingdecor and supplied by Xianhe and Zhejiang Xianhe, because in DGTR final finding Notification dated 28.09.2021 based on which Notification No. 77/2021-Cus (ADD) is issued, Export price fixation considered M/s Kingdecor, Xianhe and Zhejiang Xianhe as one source of export. Further DGTR final finding notification dated 28.09.2021 clearly states that Kingdecor supplies material through Xianhe and Zhejiang Xianhe to India. Thus Sr. No. 1 of Notification No. 77/2021-Cus (ADD) would cover goods which are manufactured by Kingdecor even if said manufactured goods were supplied by Xianhe and Zhejiang Xianhe. He though maintained that in fact, imported goods were manufactured by M/s Kingdecor.

2.2 He submits that as per in DGTR final finding Notification dated 28.09.2021, Xianhe and Zhejiang Xianhe are only traders and not even manufacturer of subject goods. The fact that they are being traders of imported goods which was manufactured by M/s Kingdecor was declared by M/s Kingdecor, Xianhe and Zhejiang Xianhe before DGTR, during course of

DGTR proceedings thus allegation of department in the present case that Xianhe and Zhejiang Xianhe are manufacturer of imported goods is completely baseless. For which he has cited replies of M/s Kingdecor, Xinahe and Zhejiang Xianhe filed before DGTR during antidumping investigation.

2.3 He further submits that Sr. No. 4 of Notification No. 77/2021-Cus (ADD) providing for antidumping duty at the rate of 542 USD/PMT is applicable only for those producers who have not participated during investigation by DGTR for which he has referred para 48 of DGTR final finding Notification dated 28.09.2021 which provides that export price is determined based on facts available on records for exporters/producers who have not participated during DGTR investigation and for them higher rate of antidumping duty is imposed. He also referred para 45 which provides that export price of goods manufactured by M/s Kingdecor regardless of fact that same is supplied through Xinahe and Zhejiang Xianhe is recorded to show that M/s Kingdecor, Xinahe and Zhejiang Xianhe participated in the proceeding before DGTR that too as one source of supply.

2.4 He submits that Ld. Commissioner while holding that M/s Kingdecor is job worker for Xinahe and Zhejiang Xianhe has travelled beyond the scope of SCN because whole case of department in the SCN was that imported goods were manufactured by Xinahe and Zhejiang Xianhe and not manufactured by M/s Kingdecor. Ld. Commissioner in the impugned order has held that goods were not manufactured by Xinahe and Zhejiang. He conceded that imported goods were manufactured at plant of M/s Kingdecor. Thus, after having held that imported goods are manufactured by M/s Kingdecor he ought to have dropped the proceeding. In this regard, reliance is placed upon following decisions on the proposition that adjudication order cannot travel beyond scope of SCN:

a) Caprihans India Ltd. Vs. Commissioner of Central Excise, 2015 (325) E.L.T. 632 (S.C.)
b) Commissioner of Customs, Mumbai Vs. Toyo Engineering India Ltd., 2006 (201) E.L.T. 513 (S.C.)
c) Uni Well Exim Vs. State of Gujarat, 2022 (63) G.S.T.L. 289 (Guj.)

2.5 He further submits that Antidumping duty notification/fiscal legislation must be interpreted strictly. Addition of words are not permitted while interpreting the notification. He submits that there is no dispute that imported goods are produced by M/s Kingdecor. Thus, Sr. No.1 of notification would be applicable in the present case. Ld. Commissioner vide para 34.8 of impugned order has observed that if goods are manufactured ***for and by*** M/s Kingdecor only in that case Sr. No. 1 of Notification No. 77/2021-Cus (ADD) would apply. The Notification No. 77/2021-Cus (ADD) only provides that imported goods produced by M/s Kingdecor would attract Sr. No.1. of notification. Antidumping Notification does not uses the phrase " manufactured for and by M/s Kingdecor". Thus, addition of word "**for and by** M/s Kingdecor" is not permissible in law while interpreting the notification as notification has to be strictly interpreted. In this regards he relies upon following decisions:

- Commissioner of Customs (Import), Mumbai Vs. Dilip Kumar & Company, 2018 (361) E.L.T. 577 (S.C.)
- KrishiUpajMandi Vs. Commissioner of C. Ex. & S.T., Alwar, 2022 (58) G.S.T.L. 129 (S.C.)
- Salasar Fortune Marketing (I) Ltd. Vs. Commr. of Cus., Kandla 2004 (166) E.L.T. 353 (Tri. -Mumbai)

2.6 He submits that in fact imported goods are manufactured by M/s Kingdecor in the present case thus Sr. No. 1 to Notification No. 77/2021-Cus (ADD) would be applicable to imported goods for which he relies upon Production reports and Certificate dated 05.07.2024 issued by M/s. Kingdecor to submit that Base Paper/Uncoated printing paper with series "XH" and "KD" are manufactured by M/s Kingdecor. He highlighted that computerized production report of M/s Kingdecor's plant submitted by Shri Saraf during his statements dated 12.07.2024 shows that paper rolls which were given "XH" Item Code while there production in M/s. Kingdecor plant were sold and supplied to Appellants because the production report also contains details like the number given to each of such rolls in their plant at the time of production. The identification number of each of such rolls carrying "XH" Item code can be compared to the details of Item Code number and roll number appearing in their commercial invoice issued to Appellants as well as with the container-wise packing lists issued to Appellants while selling and supplying these goods. Further, the Certificate dated 05.07.2024 issued by M/s. Kingdecor also clarifies the factual position about all consignments of uncoated printing paper sold to Appellants under commercial invoices of M/s. Kingdecor has been produced by them in their plant. It is certified that all the goods so sold to Appellants with Item Code "XH" were produced by M/s Kingdecor in their plant.

2.7 He submits that in any case, mere use of particular code cannot be reason to hold that goods are manufactured by a particular entity. The department has not provided any evidence that imported goods are manufactured by M/s. Xianhe and M/s. Zhejiang.

2.8 He submits that POs and corresponding proforma invoices, commercial invoices and packing lists issued by M/s. Kingdecor are not doubted by the Revenue. Moreover, their documents have item code "XH" and their genuineness as well as authenticity is admitted by the Revenue.

2.9 He further submits that mere the packing material is not a sufficient proof or evidence for deciding the manufacturer of the imported goods. Department has no cogent and reliable evidence to prove that item code "XH" was only used by M/s. Xianhe and M/s. Zhejiang. Moreover, no specific enquiry was conducted in regards of whether the goods sold and supplied by them to Appellants were actually produced/manufactured by them or otherwise.

2.10 He relies upon clarification issued by M/s. Kingdecor vide Certificate dated 05.07.2024 that M/s. Xianhe Co. Ltd. has 50% stakes in M/s. Kingdecor and therefore there is arrangement for using common Item Code "XH", and for declaring "XH" Item Code on packing materials and tapes owing to the arrangement between M/s. Kingdecor and M/s. Xianhe**,** He also referred the content of letter by the Consulate General of India to show that imported goods are manufactured by M/s Kingdecor.

2.11 He further submits that with regards to location of two plants of M/s Kingdecor it is clarified under their certificate dated 31.05.2022 that M/s Kingdecor have two plants, one having been located at No.158, Tongjiang Road, Shenjia Development Zone of Quzhou City, Zhejiang 324022, China and the order having at No. 20 south Tainhu Road, Qujiang District, Quzhou city, Zhejiang 324022 China. The above-mentioned addresses when compared to the address of M/s. Kingdecor appearing on the proformainvoice and other import documents establish that fact that M/s. Kingdecor has been manufacturing these goods for years and they have plant with machines for production of decorative paper is a well-established and well documented fact.

2.12 He submits that emails sent to domestic customers are not relevant evidence to show that imported goods are not manufactured by M/s Kingdecor as it is evident that M/s Xianhe is only trader and not manufacturer of imported goods. In any case such emails are only marketing gimmick.He submits that without prejudice to above submissions, it is settled law that suspicion, howsoever grave, cannot substitute evidence.

2.13 He relies on cross examination report of statements of Shri Jignesh Shah, Proprietor of M/s. Shah International Services, Mumbai and Shri Sarwan Kumar Saraf Proprietor of M/s. Saraf Sales Corporation which clearly state that Item Code "XH" is also used by M/s. Kingdecor, and "XH" series of paper rolls were regularly sold by M/s. Kingdecor.

2.14 He further submits that extended period is not invokable and goods are not liable to confiscation, penalty and redemption fine is not imposable in the present case. Since the demand on the Appellant Company is liable to be set aside, the penalties imposed on the Shri Anand Agarwal, Director of the Appellant Company and Shri Sarwan Kumar Saraf, Agent/broker of the Appellant Company are also liable to be set aside.

3. Shri Girish Nair, learned authorized representative appearing for the Revenue opposed the contentions of the appellant and reiterated the findings made in the impugned order by the Ld. Commissioner.

4. We have carefully considered the submissions made from both the sides and perused the records

4.1 We find that the issue in the present case pertains to applicable rate of anti-dumping duty under Notification No. 77/2021– Customs (ADD) dated 27.12.2021 on imported Uncoated Printing Paper/Base Paper. Appellants have claimed Sr. No. 1 of Notification No.77/2021-Customs (ADD) dated 27.12.2021 which provides for antidumping duty at the rate of 116 USD/ PMT for imported goods produced by M/s. Kingdecor (Zhejiang) Co. Ltd. On the other hand, according to department in the SCN the applicable rate of ADD would be 542 USD/PMT interms of Sr. No. 4 of Notification No.77/2021-Customs (ADD) dated 27.12.2021 because according to department imported goods were not produced by the M/s. Kingdecor and same were produced by M/s. Xianhe Co. Ltd., Zhejiang, China and M/s. Zhejiang Xianhe New Materials Co. Ltd.

4.2 We find Admittedly, Ld. Commissioner has vide para 34.8 of the impugned order has noted that subject goods were manufactured by M/s Kingdecor with XH series. Thus, the finding of fact is recorded that imported goods were manufactured by M/s Kingdecor, then Sr. No. 1 of Notification No. 77/2021-Cus. (ADD), dated 27-12-2021would be available to appellants which provides antidumping duty at the rate of 116 USD/PMT. On this ground alone impugned order is liable to be set aside. For ease of reference, relevant part of notification is extracted and reproduced as under:

[Notification No. 77/2021-Cus. (ADD), dated 27-12-2021]

Anti-dumping duty on Décor Paper, originating in, or exported from, People's Republic of China

*****

*Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act, read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under tariff item of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the country as specified in the corresponding entry in column (4), exported from the country as specified in the corresponding entry in column (5)**, produced by the producers as specified in the corresponding entry in column (6),** and imported into India, an anti-dumping duty at the rate equal to the amount as specified in the corresponding entry in column (7), in the currency as specified in the corresponding entry in column (9) and as per unit of measurement as specified in the corresponding entry in column (8), of the said Table, namely :-*

TABLE

S. No.	**Tariff Item**	**Descri p-tion***	**Country of Origin**	**Country of Export**	**Producer**	**Amo -unt**	**Unit**	**Currency**
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	**480**	**Decor**	**People'**	**Any**	**Kingdeco**	**116**	**MT**	**US**

	5 91 00, 480 2 20 90	***Paper***	***s Republic of China***	***country including People's Republic of China***	***r (Zhejiang) Co., Ltd.***			***Dollar***
	***							
4.	*4805 91 00, 4802 20 90*	*Decor Paper*	*People's Republic of China*	*Any country including People's Republic of China*	***Any other than*** *S. Nos. 1, 2 and 3.*	*542*	*MT*	*US Dollar*

From the above, it is evident that Sr. No.1 of Notification No. 77/2021-Cus. (ADD), dated 27-12-2021would be applicable for imported goods produced by M/s Kingdecor. Ld. Commissioner vide impugned order has given categorical finding that imported goods are produced by M/s Kingdecor, thus, appellants are entitled for Sr. No.1 to the Notification No. 77/2021-Cus (ADD) dated 27-12-2021.

4.3 We find that Ld. Commissioner vide para 34.8 of impugned order has however observed that if goods are manufactured ***for and by*** M/s Kingdecor only in that case Sr. No. 1 of Notification No. 77/2021-Cus. (ADD), dated 27-12-2021 would apply. Ld. Commissioner has not correctly interpreted Sr. No. 1 of Notification No. 77/2021-Cus. (ADD), dated 27-12-2021 he has added the non-existent words as Sr. No.1 of Notification No. 77/2021-Cus. (ADD), dated 27-12-2021does not uses the phrase " manufactured for and by" it only uses the words ***"produced by"*** M/s Kingdecor. Thus, addition of word "***for and by"*** M/s Kingdecor is not permissible in law while interpreting the notification. In this regards decision of Commissioner of Customs (Import), Mumbai Vs. Dilip Kumar & Company, 2018 (361) E.L.T. 577 (S.C.) held as under:

> ***"19.*** *The well-settled principle is that when the words in a statute are clear, plain and unambiguous and only one meaning can be inferred, the Courts are bound to give effect to the said meaning irrespective of consequences. If the*

words in the statute are plain and unambiguous, it becomes necessary to expound those words in their natural and ordinary sense. The words used declare the intention of the Legislature. In Kanai Lal Sur v. ParamnidhiSadhukhan, AIR 1957 SC 907, it was held that if the words used are capable of one construction only then it would not be open to the Courts to adopt any other hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act.

20. *In applying rule of plain meaning any hardship and inconvenience cannot be the basis to alter the meaning to the language employed by the legislation. This is especially so in fiscal statutes and penal statutes. Nevertheless, if the plain language results in absurdity, the Court is entitled to determine the meaning of the word in the context in which it is used keeping in view the legislative purpose [Assistant Commissioner, Gadag Sub-Division, Gadag v. MathapathiBasavannewwa, 1995 (6) SCC 355]. Not only that, if the plain construction leads to anomaly and absurdity, the Court having regard to the hardship and consequences that flow from such a provision can even explain the true intention of the legislation. Having observed general principles applicable to statutory interpretation, it is now time to consider rules of interpretation with respect to taxation.*

21. In construing penal statutes and taxation statutes, the Court has to apply strict rule of interpretation. The penal statute which tends to deprive a person of right to life and liberty has to be given strict interpretation or else many innocent might become victims of discretionary decision-making. Insofar as taxation statutes are concerned, Article 265 of the Constitution [265. Taxes not to be imposed save by authority of law - No tax shall be levied or collected except by authority of law.] prohibits the State from extracting tax from the citizens without authority of law. It is axiomatic that taxation statute has to be interpreted strictly because State cannot at their whims and fancies burden the citizens without authority of law. In other words, when competent Legislature mandates taxing certain persons/certain objects in certain circumstances, it cannot be expanded/interpreted to include those, which were not intended by the Legislature."

4.4 We find that in DGTR final finding Notification dated 28.09.202, Export price fixation for deciding antidumping duty was decided by considering M/s Kingdecor, Xianhe and Zhejiang Xianhe as one source. DGTR notification clearly states that Kingdecor also supplies material through Xianhe and Zhejiang Xianhe to India.

4.5 We find that in replies to DGTR, M/s Kingdecor has clearly stated that they also supplied material to India through traders namely Xinahe and Zhejiang Xianhe. Xianhe and Zhejiang Xianhe also stated that they do not produce material subject to antidumping duty but they purchase it from M/s

Kingdécor and supplied to India. Thus, the assumption in the SCN that imported goods are manufactured by Xianhe and Zhejiang Xianhe are completely baseless.

4.6 Without prejudice, we find that imported goods are indeed manufactured by M/s Kingdecor which is evident from following documents:

4.6.1 Certificate dated 13.07.2024 issued by M/s Kingdecor clearly states that XH series of imported goods are manufactured by them.

KINGDECOR 夏王

TO WHOM IT MAY CONCERN,

DATE: 2024.07.13

DECLARATION

THIS IS TO DECLARE THAT INVOICE NO. 202002044 DTD 25.02.2020 FOR SUPPLY TO ALFA ICA LTD. IN THIS CONSIGNMENT THERE IS ITEM XH 5017U/80 GSM, ALTHOUGH IT MENTIONED XH, BUT PRODUCTION AT KINGDECOR MILL. PLEASE KINDLY NOTED.

KINGDECOR (ZHEJIANG) CO., LTD.

浙江夏王纸业有限公司
KINGDECOR (ZHEJIANG) CO., LTD.

Daisy

4.6.2) Letter dated 7.4.2023 issued by consulate general of India, Guangzhou states that imported goods were manufactured by M/s Kingdecor and old tape was used for packing.

CONSULATE GENERAL OF INDIA GUANGZHOU

सत्यमेव जयते

Units 1401-1404, 14th Floor, HNA Tower 8, Linhe Zhong Road Tianhe District Guangzhou-510610, China
Website: www.cgiguangzhou.gov.in

F.NO. GZ/CUS/CN/02/2023
Date: 07.04.2023

To
The Principal Additional Director General,
Directorate of Revenue Intelligence,
New Delhi.

Kind Attention: The Joint Director (Policy), Hqrs, New Delhi.

Sir,

Subject: Ref: DRI/POL/COR/85/2022/164 : M/s Match Graphics Pvt.Ltd, Ahmedabad - Mis declaration of the original producer of the goods in the import of Uncoated printing paper- Overseas Inquiry there of from Guangzhou, China – reg.

With reference to the above subject regarding the misdeclaration of the original producer, which was received by the undersigned in the prescribed format on 27.02.2023 via email. Enquiries have been conducted through China Customs and also by contacting M/s. Kingdecor (Zhejiang) Co. Ltd.

The nodal officer of the General Administration has replied: " Since the certificate of origin you requested for verification does not belong to a non preferential certificate of origin, it is recommended that you directly contact the tariff Department of the General Administration of Customs of China for inquiry."
Since the nodal officer of GACC has not supplied any documents undersigned requested the contact details of the tariff department of GACC and also again requested to provide the China Customs declaration documents as mentioned in the reference. The reply from GACC is awaited.

In the meantime, an enquiry from M/s Kingdecor has been conducted regarding the mismatch of the name mentioned on the packaging material and the Bill of Lading or invoices. To which they replied as follows:

"产品是我们夏王制造生产的

仙鹤是我们的母方合资公司，在最初的时候，包装用胶带我们是用的仙鹤logo胶带
去年4月份开始的生产，我们换成了夏王logo的胶带

Seen
Anand
7/4/2023

客人收到的纸卷是我们之前的库存，所以存在使用老胶带的一个情况，但实际制造商是浙江夏王纸业有限公司，请知悉，谢谢！”

The translation of the above Chinese communication is
"The product is manufactured by our Kingdecor.

Xianhe is our parent joint venture company. At the beginning, we used the Xianhe logo tape for packaging. The production started in April last year, we replaced it with Xiawang (Kingdecor) logo tape.

The paper roll received by the customer is our previous stock, so there is a case of using old tape, but the actual manufacturer is Zhejiang Xiawang (Kingdecor) Paper Co., Ltd., please know, thank you!"

Yours sincerely,

Seen

(Sandeep Kumar Rawal)
Consul (Eco, Sc. &tech.)

4.6.3 Certificate dated 05.07.2024 issued by M/s. Kingdecor also clarifies the factual position about all consignments of uncoated printing paper sold to Appellants under commercial invoices of M/s. Kingdecor has been produced by them in their plant, and the attachment to this certificate refers to each of the commercial invoices under which they sold the goods to Appellants. It is certified that all the goods so sold to Appellants with Item Code "XH" were produced by them in their plant.

KINGDECOR

浙江夏王纸业有限公司 Kingdecor(Zhejiang)Co.,Ltd.

To

M/s. Saraf Sales Corporation,
101, Panchvati, Tilak Vidyalaya Road,
Vile Parle (E), Mumbai-400057.

In response to your inquiry whether consignments of uncoated printing paper sold under our commercial invoices to M/s. Match Graphics Pvt. Ltd., Survey No.419/P/1, Radhey Industrial Estate, Tajpur Road, Changodar, Ahmedabad-382415 were manufactured by M/s. Kingdecor (Zhejiang) Co. Ltd. or any other manufacturer, and whether such uncoated printing paper having item code XH were manufactured in our plant or by manufacturers like M/s. Xianhe Co. Ltd. or M/s. Zhejiang Xianhe New Material Sales Co. Ltd., we clarify as under:-

1. All consignments of uncoated printing paper sold to M/s. Match Graphics Pvt. Ltd. under our commercial invoices were manufactured by us in our plant. In this plant, uncoated printing paper of various varieties are produced, which are sold and supplied under item codes of KD as well as XH. KD is item code of our company M/s. Kingdecor (Zhejiang) Co. Ltd., but we also use item code XH for various varieties of uncoated printing paper produced in this plant, and sold by us in the international trade. Since M/s. Xianhe Co. Ltd. has 50% stakes in M/s. Kingdecor (Zhejiang) Co. Ltd., this arrangement of using common item code XH is made.

2. All consignments of uncoated printing paper sold under our commercial invoices to M/s. Match Graphics Pvt. Ltd. of Changodar, Ahmedabad were

KINGDECOR 夏王

manufactured by our company in our plant, and XH item code had been marked and declared on documents of these goods and on packing materials and tapes owing to the arrangement between our company and M/s. Xianhe Co. Ltd. In confirmation, a statement signed and certified by us is enclosed for all goods sold by us to M/s. Match Graphics Pvt. Ltd. under our commercial invoices, with details of corresponding packing lists, certificates of origin and detailed container wise packing list. It is to certify that roll numbers shown in container wise packing list are recorded in production sheets and registers in the plant of our company where these rolls were manufactured. All these goods were manufactured in our plant, and we have complete records and data with details like date of production, time of production, item code allotted to the goods, and details of machines on which such paper rolls manufactured in our company.

This clarification and certification is issued in response to your inquiry about actual manufacturer of the goods and for item codes used by us for such goods. The details of all goods produced in our plant could be verified from our production record registers and data which are maintained in the normal course of business.

Date: 05. July. 2020
Place: China

M/s. Kingdecor (Zhejiang) Co. Ltd.

浙江夏王纸业有限公司
KINGDECOR (ZHEJIANG) CO., LTD.

Cathy

浙江夏王纸业有限公司
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Kingdecor (Zhejiang) Co.,Ltd.,No.20,South Tianhu Road, Quzhou, Zhejiang, China,324022
电话/Tel:+86 570-8768666, 传真/Fax:+86 570-8768777, 邮箱/E-mail:info@kingdecor.cn

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KINGDECOR 夏王

浙江夏王纸业有限公司 Kingdecor(Zhejiang)Co.,Ltd.

TO WHOM IT MAY CONCERN,

May 31 2022

Kingdecor (Zhejiang) Co., Ltd. has two plants, one is located in:

NO. 158 TONGJIANG ROAD SHENJIA DEVELOPMENT ZONE OF QUZHOU CITY, ZHEJIANG 324022 CHINA

the other plant is located in:

NO. 20 SOUTH TIANHU ROAD, QUJIANG DISTRICT, QUZHOU CITY, ZHEJIANG 324022 CHINA

The above two addresses we have machines and both plants produce decorative paper.

With best regards

Kingdecor (Zhejiang) Co., Ltd.

浙江夏王纸业有限公司
KINGDECOR (ZHEJIANG) CO., LTD.

Cathy

浙江夏王纸业有限公司
中国浙江省衢州市天湖南路20号 邮政编码:324022
Kingdecor (Zhejiang) Co.,Ltd.,No.20,South Tianhu Road, Quzhou, Zhejiang, China,324022
电话/Tel:+86 570-8768666, 传真/Fax:+86 570-8768777, 邮箱/E-mail:info@kingdecor.cn

4.6.4 Shri Jignesh shah during cross examination vide his statement dated 12.07.2024 has stated that M/s. Shah International Services have also sold goods produced by M/s. Kingdecor carrying “XH” Item codes. Further, Shri JigneshShah has confirmed that M/s. Kingdecor were selling paper under “XH” Item Code regularly through another distributor in India, and that distributor was M/s. Saraf Sales Corporation of Shri SarwanSaraf. Shri SarwanSaraf has also during his cross examination vide his statement dated 12.07.2024 confirmed that Item Codes of “KD” and “XH” are used for paper produced by M/s. Kingdecor. That computerized production reports are prepared in the plant of M/s. Kingdecor in normal course and such a production report contains details for each day in respect of number of paper rolls produced on a particular machine, net weight of the goods produced, paper model, the time of actual production and material code number i.e. the Item Code.

आयुक्तका कार्यालय, सीमा शुल्क (निवारक), जामनगर
Office of the Commissioner of Customs (Preventive), Jamnagar
शारदा हाउस, बेडी बंदर मार्ग, पंचवटी के सामने, जामनगर-361008
Sarda House, BediBunder Road, Opp. Panchwati Jamnagar- 361008
Phone No: 0288-2757518 Fax: 0288-2757539
Email: adj-custjmr@nic.in

RECORDS OF CROSS EXAMINATION OF

SHRI JINESH SHAH, PROPRIETOR OF M/S. SHAH INTERNATIONAL SERVICES, MUMBAI
DONE BY
SHRI PARESH DAVE ADVOCATE REPRESENTING M/S. MATCH GRAPHICS PVT. LTD., AHMEDABAD& SHRI ANAND AGRAWAL.

BEFORE

SHRI DHIRENDRA LAL, COMMISSIONER, CUSTOMS (PREVENTIVE), JAMNAGAR

1) Name of the Noticee/Witness :ShriJinesh Shah, Proprietor of M/s. Shah International Services, Mumbai

2) Date & Time of Cr.Ex. : 12-07-2024 at 13:00 Hrs.

3) SCN No. & Date : COMMR-05/2023-24
4) File No :CUS/1536/2022-Adjn.

Q.-1	Is it true that paper produced by M/s. Kingdecor (Zhejiang) Co. Ltd. is never sold by your firm to M/s. Match Graphics Pvt. Ltd. of Ahmedabad?
Ans.	Yes. We have never acted as commission agent for paper produced by M/s. M/s. Kingdecor for sale to M/s. Match Graphics.
Q.2	Have you at any time sold goods produced by M/s. Kingdecor to one Ahmedabad based customer M/s. Alfa Ica (I) Ltd.?
Ans.	Yes.
Q.3	I am showing you one invoice of King decor to Alfa Ica (I) Ltd., which is invoice No.202002044 dated 25-02-2020. The goods under this invoice were sold through your firm?
Ans.	Yes. The sale was through my firm.
Q.4	And the goods sold under this commercial invoice were produced by M/s. Kingdecor?
Ans.	I can confirm that first four items were produced by M/s. Kingdecor, but for the 5th item in this invoice, I have to confirm with M/s. Kingdecor.
Q.5	How much time would be required by you for such confirmation?
Ans.	Within one or two weeks.
Q.6	Since you are one of the agents or distributors of M/s. Kingdecor in India and Bhutan, can you clarify whether Kingdecor has also been trading in paper rolls produced by other manufacturers?
Ans.	M/s. Kingdecor are manufacturer of base paper. I do not know if they are also in trading business of paper produced by other manufacturers.

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Q.7	I am showing you one catalogue of M/s. King decor. XH item code is shown in this catalogue of Kingdecor. [Annx.7 to reply of Match Graphics]. Have you verified whether XH item code is also used by M/s. Kingdecor for the goods produced by them?
Ans.	Kingdecor has sold goods with XH item code also.
Q.8	M/s. Kingdecor has been regularly selling goods produced by them under item code XH, or only on some few occasions?
Ans.	They are selling paper under XH item code regularly through another distributor in India.
Q.9	Do you have any information who is such other distributor or distributors of M/s. Kingdecor in India?
Ans.	Yes. M/s. Saraf Sales Corporation of Shri Sarwan Saraf.
Q.10	Have you verified with your Principal M/s. Kingdecor whether they sell base paper/ uncoated paper produced by them under item code "XH" also.
Ans.	Yes. I verified with them and they have given me a declaration in writing on 21-11-2022 that they produce "XH" and "KD" series of paper type for different markets and different customers. The copy of this declaration is submitted.

No further questions put forth for crosss examination.

12/07/24

SHRI JINESH SHAH, PROPRIETOR
M/S. SHAH INTERNATIONAL SERVICES, MUMBAI

Paresh M. Dave 12-7-2014
SHRI PARESH DAVE ADVOCATE REPRESENTING
M/S. MATCH GRAPHICS PVT. LTD., AHMEDABAD
& SHRI ANAND AGRAWAL.

Before me,

12/7/24

DHIRENDRA LAL
COMMISSIONER

आयुक्तका कार्यालय, सीमा शुल्क (निवारक), जामनगर
Office of the Commissioner of Customs (Preventive), Jamnagar
शारडा हाउस, बेड़ी बंदर मार्ग, पंचवटी के सामने, जामनगर-361008
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Phone No: 0288-2757518 Fax: 0288-2757539
Email: adj-custjmr@nic.in

RECORDS OF CROSS EXAMINATION OF

SHRI SARWAN KUMAR DEVIDUTT SARAF, PROPRIETOR OF M/S. SARAF SALES CORPORATION, MUMBAI
DONE BY
SHRI PARESH DAVE ADVOCATE REPRESENTING M/S. MATCH GRAPHICS PVT. LTD., AHMEDABAD& SHRI ANAND AGRAWAL

BEFORE

SHRI DHIRENDRA LAL, COMMISSIONER, CUSTOMS (PREVENTIVE), JAMNAGAR

1) Name of the Noticee/Witness : ShriSarwan Kumar DeviduttSaraf, Proprietorof M/s. Saraf Sales Corporation, Mumbai.

2) Date & Time of Cr.Ex. : 12-07-2024 at 11:00 Hrs.

3) SCN No. & Date : COMMR-05/2023-24
4) File No :CUS/1536/2022-Adjn.

Q.1	Is it true that your statement were recorded by DRI officers on 28th & 29th of June 2022, for the case against M/s. Match Graphics Pvt. Ltd., Ahmedabad.
Ans.	Yes.
Q.2	You have stated in statement dated 28-06-2022 that your main overseas suppliers are M/s. Kingdecor (Zhejiang) Co. Ltd. of China, M/s. Xianhe Co. Ltd. of China and M/s. Zhejiang Xianhe New Materials Sales Co. Ltd. of China. Can you explain whether you are a commission agent or the authorized dealer of these three Chinese suppliers and how do you conduct the business for selling products of these Chinese suppliers.
Ans.	My firm is working as a commission agent. In case of big customers like Match Graphics, I receive purchase order from Match Graphics, which is in name of M/s. Kingdecor, which I forward to Kingdecor. When the goods are sold by M/s. Kingdecor, the proforma invoice and also the commercial invoice are raised by M/s. Kingdecor directly in name of Match Graphics, but such invoices and all other documents issued by M/s. Kingdecor are sent to Match Graphics through my firm. Payment is made by Match Graphics directly to Kingdecor, which may be by Letter of Credit or Direct Payment of SWIFT etc., and my firm gets commission at fixed rate from the Indian customer i.e. Match Graphics, on the total price of the goods charged by M/s. Kingdecor.
3.	Is it true that in last about 4 years i.e. from 2020 onwards, M/s. Match Graphics have purchased uncoated printing paper produced by only M/s. Kingdecor through your firm, and such uncoated printing papers produced by the other 2 firms viz. M/s. Xianhe & M/s. Zhejiang are not purchased by M/s. Match Graphics through your firm in last about 4 years?
Ans.	Yes. In last four years M/s. Match Graphics has purchased base papers produced by M/s. Kingdecor only under invoices of M/s. Kingdecor. About 3 or 4 years before year 2020, all consignments of paper were supplied by these two other suppliers to M/s. Match Graphics through my firm, but not in last about four years.
Q.4	Is it true that a commercial invoice issued by M/s. Kingdecor, a certificate of country of origin for the goods mentioned in the invoice, a packing list as well

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	as detailed container-wise packing list, a Bill of Entry filed in India for these goods are a complete set of documents for each of the consignments sold by M/s. Kingdecor through your firm?
Ans.	From my firm as a commission agent, the Indian customer was forwarded commercial invoice, certificate of origin, bill of lading, insurance policy, packing list and container-wise packing list. But Bill of Entry on basis of these documents, was filed by the customer through their CHA.
Q.5	All the above documents were forwarded by you to Match Graphics also for all consignments of paper purchased by them from M/s. Kingdecor through your firm?
Ans.	Yes. These documents were given by me and then M/s. Match Graphics filed Bills of Entry through their CHA.
Q.6	You have stated that you are in paper trading business since 1982. During your business activities, have you ever visited the plant of M/s. Kingdecor in China, where uncoated printing paper or base paper are produced?
Ans.	I have been visiting China since year about 2002 on regular basis. I visit plant of the producer, three to four times in a year. From year 2008 or 2010 I have always visited the suppliers in the plant of M/s. Kingdecor, because collaboration between M/s. Xianhe Co. Ltd. & M/s. Kingdecor took place around that time, so from 2008 or 2010 I have been visiting plant of M/s. Kingdecor, three to four times in a year.
Q.7	When you visit the plant of M/s. Kingdecor, you hold meeting in the office of the plant or you actually visit the plant also where production takes place?
Ans.	After meeting in the office, I visit the plant also for discussing production related matters with the Production Manager etc. in the plant.
Q.8	Is it true that all the rolls of paper, including uncoated printing paper produced by M/s. Kingdecor are given item codes, starting with alphabets "KD" only, or any other item code number is also given for such uncoated printing paper or base paper produced by M/s. Kingdecor?
Ans.	For paper produced by M/s. Kingdecor, item codes of "KD" and also "XH" are used.
Q.9	Is there any record of rolls of paper produced in the plant of M/s. Kingdecor indicating the item code allotted to such rolls produced in their plant?
Ans.	Yes, I have visited M/s. Kingdecor and obtained from them complete production report, which I am submitting before you. The description for various headings in this production reports/ sheets are in Chinese language and therefore at my request, the supplier's representative has translated the headings in English. These reports/ sheets show the paper roll no. and the machine no. on which paper rolls were produced and also quantity, specification etc. of paper rolls with material code no., and the date & time of production of the paper rolls. It is clear from this production report that item codes "KD" & "XH" both are used by M/s. Kingdecor for paper rolls produced by them. I have highlighted details of paper rolls sold through my firm to M/s. Match Graphics in this report with yellow colour. These paper roll nos. completely match with the roll nos. given in the packing list for containers and it is also clear from the highlighted entries in these reports that "XH" item code is given by M/s. Kingdecor to paper rolls produced by them and sold to various customers, including M/s. Match Graphics. (The computerised production report are submitted herewith for record)
Q.10	You referred to a complete set of import documents and Bill of Entry filed in India. Can you show how the roll nos. given by M/s. Kingdecor with the item code can be co-related in all the import documents and the Bill of Entry filed in India by the Customer, M/s. Match Graphics?
A.	Yes. I am submitting 01 set of import documents relatable to commercial invoice no. XW22143D dated 04-02-2022. In commercial invoice as well as accompanying packing list and certificate of origin, the details of paper rolls are recorded. In the container-wise packing list, container no. and roll nos. are mentioned, and in the Bill of Entry filed for these goods, the details of commercial invoice, container nos. etc. are disclosed. All the rolls of paper recorded in these documents are also recorded in the production reports/ sheets of M/s. Kingdecor and item code "XH" is recorded in production report/

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	nos. given in the packing list for containers and it is also clear from the highlighted entries in these reports that "XH" item code is given by M/s. Kingdecor to paper rolls produced by them and sold to various customers, including M/s. Match Graphics. (The computerised production report are submitted herewith for record)
Q.10	You referred to a complete set of import documents and Bill of Entry filed in India. Can you show how the roll nos. given by M/s. Kingdecor with the item code can be co-related in all the import documents and the Bill of Entry filed in India by the Customer, M/s. Match Graphics?
A.	Yes. I am submitting 01 set of import documents relatable to commercial invoice no. XW22143D dated 04-02-2022. In commercial invoice as well as accompanying packing list and certificate of origin, the details of paper rolls are recorded. In the container-wise packing list, container no. and roll nos. are mentioned, and in the Bill of Entry filed for these goods, the details of commercial invoice, container nos. etc. are disclosed. All the rolls of paper recorded in these documents are also recorded in the production reports/ sheets of M/s. Kingdecor and item code "XH" is recorded in production report/ sheets for indicating that the goods sold under "XH" item code to M/s. Match Graphics were produced by M/s. Kingdecor. I am submitting copy of the set of said invoice.
Q.11	Can you confirm whether all the rolls of paper sold to M/s. Match Graphics, for which this case is made out by DRI were actually produced by M/s. Kingdecor, and can you get any confirmation from M/s. Kingdecor, because you are the commission agent through whom M/s. Match Graphics have purchased these goods from M/s. Kingdecor.
A.	I have requested M/s. Kingdecor for such confirmation and also clarification about use of item codes "KD" as well as "XH", and a fairly detailed confirmation certificate is received by me recently in writing from M/s. Kingdecor. I am submitting this certificate of 05-07-2024, which has one attachment duly signed by them for confirming that the goods sold by them under 35 invoices to M/s. Match Graphics were produced by them in plant of M/s. Kingdecor, and all the details and data of roll nos. sold to M/s. Match Graphics under "XH" item code are recorded in production sheets and registers in plant of their company, which could be verified from their production record registers and data.[The said certificate is taken on record.]

No further questions were put forth for cross examination.

12/7/2024

SHRI SARWAN KUMAR DEVIDUTT SARAF,
PROPRIETOR OF M/S. SARAF SALES CORPORATION, MUMBAI

12.7.2024

SHRI PARESH DAVE ADVOCATE REPRESENTING M/S. MATCH GRAPHICS PVT. LTD., AHMEDABAD& SHRI ANAND AGRAWAL

Before me

12/7/24

DHIRENDRA LAL
COMMISSIONER

4.7 We find that emails sent to domestic customers informing about levy of antidumping duty are not reliable evidence to prove that imported goods are manufactured by M/s Xianhe and not by M/s Kingdecor. Moreover, M/s Xianhe is only trader and not manufacturer of imported goods.

4.8 We find that the above evidences prove beyond doubt that imported goods were indeed produced by M/s Kingdecor at their plant.

4.9 We find that appellants are entitled to Sr. No. 1 of Notification No.77/2021-Customs (ADD) dated 27.12.2021 which provides antidumping duty at rate of 116 USD/PMT therefore, customs duty demand is set aside. Imported goods are not liable for confiscation. Penalties on all three appellants are set aside.

5. As a result, We set aside the impugned order and allow all the appeals filed by appellants with consequential relief, if any, as per law.

(Pronounced in the open court on 19.11.2024)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Bharvi