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

REGIONAL BENCH- COURT NO. 02

Customs Appeal No. 10992 of 2021
[Arising Out Of OIA-AHD-CUSTM-000-APP-289-21-22 Dated- 29/07/2021 passed by the Commissioner (Appeals), CUSTOMS-AHMEDABAD]

TRINITY PIGMENT INDUSTRIES **.....Appellant**
501 SEARS TOWER GULBAI TEKRA PANCHWATI
AHMEDABAD, GUJARAT-380006

VERSUS

C.C.-AHMEDABAD **.....Respondent**
CUSTOM HOUSE, NEAR ALL INDIA RADIO NAVRANGPURA,
AHMEDABAD, GUJARAT

APPEARANCE:
Shri. K M Dastoor, Shri. Anand Mishra, Ms. Himanshi Patwa Advocates for the Appellant
Shri. Girish Nair, Assistant Commissioner (AR) for the Respondent

CORAM: HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)
HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER (TECHNICAL)

Final Order No. 10352 /2025

DATE OF HEARING:13.05.2025
DATE OF DECISION:13.05.2025

SOMESH ARORA

1. There is an appeal filed by the appellant against 8 Bills of Entry in which goods were imported during the period from 2015 to 2018. A Show Cause Notice was issued to them on July, 2019, involving classification issue. It is seen that some of the Bills of Entry were beyond the normal period of limitation. As per Learned Advocate, the product involved is scientific and technical in nature known as “Polythene Pigments” (Pearl pigments).The department is of the view that the product falls under heading 3206 19 00 i.e. pigments and preparation based on titanium dioxide. The appellant claims classification under heading 32064990 since the same based on Mica by volume. The learned advocate for the appellants submits Bills of Entry wise a chart which is reproduced below:

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1. **Bill of Entry No. 2741018 dated 28.9.2015**

Batch No.	Mica (%)	Other materials (%)
15081971	70-74%	26-30% (Titanium Dioxide)
15082070	56-60%	40-44% (Titanium Dioxide)
15081370	57-64%	35-39 % (Titanium Dioxide) 1-4% (Ferric Oxide)
15071771	53-61%	20-24% (Titanium Dioxide) 19-23% (Di iron Trioxide)
15020971	54-58%	42-46% (Titanium Dioxide)
15071170	64-68%	32-36% (Titanium Dioxide)
15071070	63-67%	33-37% (Titanium Dioxide)
100423	64-68%	32-36% (Titanium Dioxide)
15040670	62-66%	34-38% (Titanium Dioxide)

1.1 The same as per him is based on the details given by the manufacture/ supplier. The Authorized Representative of the department was asked whether this report is acceptable to the department. Initially, he stated in affirmation. On the query being raised from the appellant whether the figures given in percentage of titanium dioxide as well as mica were given weight wise or volume wise.

2. The Learned Advocate stated that the same was volume wise. On query from the Bench that the HSN requires that comparison should be made on weight basis and not on volume basis, the Department Representative confirmed that due to non conduct of test by the department, same was not available to either side. We are appreciating the two statements made by the learned advocate for the appellant that indicated that the figures of Titanium Dioxide and Mica were given volume wise and not the weight wise. The absence of proper test report does not allow us to proceed in this matter which is a significant issue of classification.

3. We are constrained to remand back the matter to the Adjudicating authority to examine the same after having proper test report which is also the requirement for classification of every product which has chemical composition and cannot be straightaway commented on by any adjudicating authority without the support of test reports. Learned Advocate for the party also seeks indulgence to submit his own report on the basis of weight before the learned adjudicating authority. We therefore remand the matter back to the adjudicating authority to conduct proper test and read the component of chemicals involved as well as respective weight. Only on the same basis, classification can be proceeded by them. The limitation issue is also kept open to the decision by the adjudicating authority after classification is decided and also as to whether interpretation of statute was involved and whether there was actually intent to evade payment of duty or not. Matter is remanded.

5. Appeal allowed by way of remand.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Prachi