

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 23331 of 2014

(Arising out of Order-in-Appeal No. COC-CUSTOM-000-APP-153-14-15 dated 14.07.2014 passed by the Commissioner of Customs (Appeals), Cochin.)

M/s. Kairali Granites

XIII/17, NH By Pass,
Adjacent to Hotel Wyter Fort,
Marady P.O,
Cochin – 682 304.

Appellant(s)

VERSUS

Commissioner of Customs

Customs House,
Cochin - 682 009.
Kerala.

Respondent(s)

WITH

Customs Appeal No. 23333 of 2014

(Arising out of Order-in-Appeal No. COC-CUSTOM-000-APP-154-14-15 dated 14.07.2014 passed by the Commissioner of Customs (Appeals), Cochin.)

M/s. Kairali Granites

XIII/17, NH by Pass,
Adjacent to Hotel Wyter Fort,
Maradu P.O.
Cochin – 682 304.

Appellant(s)

VERSUS

Commissioner of Customs

Customs House
Cochin - 682 009.
Kerala.

Respondent(s)

AND

Customs Appeal No. 20255 of 2015

(Arising out of Order-in-Appeal No. COC-CUSTOM-000-APP-313/14-15 dated 13.11.2014 passed by the Commissioner of Customs (Appeals), Cochin.)

M/s. Kairali Granites

XIII/17, NH by Pass,
Adjacent to Hotel Wyter Fort,
Marady P.O,
Cochin – 682 304.

Appellant(s)

VERSUS

Commissioner of Customs

Customs House,
Cochin – 682 009
Kerala.

Respondent(s)

APPEARANCE:

Shri M.A. Baby, Advocate for the Appellant

Shri Rajesh Shastry, Authorised Representative for the Respondent

**CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER
(TECHNICAL)**

Final Order No. 20212 - 20214 / 2024

DATE OF HEARING: 19.03.2024

DATE OF DECISION: 19.03.2024

PER : R. BHAGYA DEVI

The appellant M/s. Kairali Granites imported 'Porcelain Panels, size 900mm X 1800mm X 5.5mm' vide Bill of Entry No. 7759896 dated 25.08.2012 and Bill of Entry No.8018775 dated 24.09.2012 and claimed the benefit of Notification No.72/2005-Cus. dated 22.07.2005. The original authority held that the appellant is not eligible for exemption under Sl.No.A204 of the Notification No.72/2005-Cus. dated 22.07.2005. On an appeal before the Commissioner (Appeals), the Commissioner (A) upheld the Original Authority's order but reclassified the goods under Chapter 68 of the Customs Tariff Act, 1962 as against the classification claimed by the appellant under Chapter 69.

2. The learned counsel appearing on behalf of the appellant submits that the goods were examined and noted as 'porcelain panel' has been declared along with the catalogue. It is mentioned that they are 'porcelain panel tiles' and the catalogue clearly mention it is ceramic tiles and vide their letter dated 05.09.2012/04.10.2012, they have informed the customs officer that they are nothing but ceramic tiles. The learned counsel also produces extract of Chapter 6808 which is

reproduced below and submits that these tiles cannot be classified under Chapter 6808 and are rightly classifiable under 6907.

- 6808 - Panels, boards, tiles, blocks and similar articles of vegetable fibre, or straw or of shavings, chips, particles, sawdust or other waste, of wood, agglomerated with cement, plaster or other mineral binders**
- 6907-Unglazed ceramic flags and paving, hearth or wall tiles; unglazed ceramic mosaic cubes and the like, whether or not on a backing.**

6907 10 10	-	Vitrified tiles, whether polished or not
6907 10 90	-	Other
6907 90	-	Other :
6907 90 10	-	Vitrified tiles, whether polished or not
6907 90 90	-	Other

3. The learned Authorized Representative for the Revenue reiterated the findings of the authorities below.

4. Heard both sides. The limited issue to be decided is whether the appellant is eligible for the benefit of Notification No.72/2005-Cus. dated 22.07.2005. As seen from the catalogue and the literature placed by the appellant before the authorities concerned, the item porcelain panel is nothing but ceramic tile and therefore, from the Chapter Headings reproduced above it is very clear that the goods are rightly classified under Chapter Heading 6907. The Explanatory Notes for Chapter Heading 6907 states "This heading covers ceramic flags and tiles including quarry tiles, commonly used for paving or facing wall, hearths etc." The invoice No.EXP1599-3 dated 29.08.2012 clearly mentions the items as ceramic tiles filed along with one of the Bill of Entry. In the second Bill of Entry, the goods have been examined and found to be porcelain panel as per the description given by the appellant and the catalogues filed along with this clearly describes the product as light ceramic tile and therefore, as per the Chapter Headings noted above, the goods are rightly classifiable under Chapter Heading 6907.

5. As seen from the Notification No.72/2005 dated 22.07.2005 under Sl.No.204 exempts ceramic tiles and

therefore, the appellant is eligible for the benefit of the said Notification as the goods are ceramic tiles.

Asia-Pacific Trade Agreement — Preferential rates of duty for specified goods imported from Bangladesh, China, Korea and Sri Lanka — Amendment to Notification No. 72/2005-Cus.

In exercise of the powers conferred by sub-section (1) of Section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 72/2005-Customs, dated the 22nd July, 2005, published in the Gazette of India Extraordinary vide number G.S.R. 497(E), dated the 22nd July, 2005, namely :-

In the said notification, -

- (I) in the preamble, in the proviso, for the words, brackets and figures "accordance with the Customs Tariff (Determination of Origin of Goods under the Bangkok Agreement) Rules, 1976, published in the notification of the Government of India in the Department of Revenue and Banking (Revenue Wing) No. 430-Customs, dated the 1st November, 1976", the words, brackets and figures "accordance with the Rules of Determination of Origin of Goods under the Asia-Pacific Trade Agreement, (formerly known as the Bangkok Agreement) Rules, 2006, published in the notification of the Government of India in the Department of Revenue No. 94/2006-Customs (N.T.), dated the 31st August, 2006" shall be substituted; and
- (II) for the TABLE, the following shall be substituted, -

Table

S. No	Chapter, Heading No., Sub-Heading No., or Tariff Item	Description of goods	Extent of tariff concession (percentage of applied duty)
(1)	(2)	(3)	(4)
Part A			
1.	0301 to 0306	All goods	100
2.	0801 11 00	All goods	14
203.	6902 10	All goods	8
204.	6907	Ceramic Tiles	57
205.	6908	Ceramic Tiles	57

6. In appeal No. C/20255/2015 with regard to Bill of Entry No.8184639 dated 11.12.2012, the Bill of Entry mentions the goods as 'vitrified panel tiles' along with the invoice No.EXP1599-4 dated 07.09.2012 which describes the goods as

ceramic tiles. The Commissioner appeals in the impugned order held that *"I find that impugned goods have been tested, analysed and reported as vitrified. Since ceramic include both vitrified and porcelain, the dispute is only with regard to the eligibility of Notification No.72/2005 which is applicable for 'tiles' only and not for slab/panel."* Accordingly, denies the benefit of the Notification.

7. As already discussed, the goods are ceramic tiles as per the invoices and catalogues filed by the appellant; therefore, the benefit of the exemption Notification for ceramic tiles on the ground that they are slabs/panels cannot be accepted. Accordingly, we hold that the good are classifiable under Chapter Heading 6907 and are eligible for the benefit of Notification No. 72/2005 dated 22.07.2005.

8. In view of the above discussions, all the appeals are allowed.

(Dictated and pronounced in Open Court)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

rv