CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 23330 of 2014

(Arising out of Order-in-Appeal No. COC-CUSTM-000-APP-156-14-15 dated 14.07.2014 passed by the Commissioner of Customs (Appeals), Cochin.)

M/s. Kairali Granites. XIII/177, NH by pass, Adjacent to Hotel Wyte Fort, Maradu, P.O.Cochin - 682304.	Appellant(s)

VERSUS

The Commissioner of Customs (Appeals), Custom House, Cochin – 9.	Respondent(s)

APPEARANCE:

Shri Baby M.A., Advocate, for the Appellant

Shri Neeraj Kumar, 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. 20429 /2024

DATE OF HEARING: 29.04.2024
DATE OF DECISION: 21.05.2024

PER : R BHAGYA DEVI

Briefly stated the facts are that the appellant M/s. Kairali Granites filed a Bill of Entry No.3508805 dated 16.05.2011 for import of 'Polished Glass Tiles' and classified them under Customs Tariff Heading (CTH) 7016 90 00. On examination by the officers, it was found that the goods were 'micro crystal porcelain tiles' and the goods were classified under CTH 6907 90 90 which was upheld by the Commissioner (Appeals).

2. The learned counsel submits that they are engaged in the business of marble, granite, tiles etc. He further submits that the documentary evidences produced by them were not considered by the authorities below and also they have also not considered the report filed by the Government approved Chartered Engineer, where it was suggested that the goods are rightly classifiable under CTH 7106.

3. The learned Authorised Representative reiterating the detailed findings of the authorities submits that the goods are rightly classifiable under CTH 6907 90 90 and therefore, the appeal is to be dismissed.

4. Heard both sides. The goods after examination were found to be "Micro Crystal Porcelain Tiles". The country-of-origin certificate also mentioned that the imported goods are covered under CTH 6907. The imported goods were manufactured by M/s. New Zhongyuan Ceramic Co. Ltd. of Guangdong according to the country-of-origin certificate. These facts are not disputed. As seen from the website of the above manufacturer, these tiles are porcelain tiles with the top layer of crystalline substance embedded into the surface of the porcelain tile and then polished to a glossy finish. The original authority has dealt in detail with all the contentions that has been raised by the appellant in their reply dated 23.05.2011, and it is also observed that no documents have been produced by the appellant to show that they are glass tiles.

4.1 The Heading CTH 7016 covers

i) paving blocks, slabs, bricks, squares, tiles and other articles of press or moulded glass, whether or not wired, of a kind used for building or construction purposes,

ii) Glass cubes and other glass small wares whether or not on a baking, for mosaics or similar decorative purposes,

iii) Leaded and the like; multi-cellular or foam glass in blocks, panels, plates, shells or similar forms.

4.2 The Customs Tariff Heading 6907 is reproduced below:

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

The goods as examined and as found from the website of the manufacturer do not fall under any of the above categories described under 7016 but they are classifiable as 'tiles' under CTH 6907 9090.

4.3 The Commissioner (Appeals) observed that *"The importer's contention is that the impugned goods are glass tiles with crystalline glass on top and the porcelain support below is only for strength and does not serve any useful purpose. This by itself makes it clear that there is a porcelain portion and that the goods are not entirely made up of glass. I also find from the documents at hand that the top layer of glass is very thin when compared to the porcelain layer below. The conclusion that the impugned goods are actually porcelain tiles with the glass finish on top being there merely for decorative purposes becomes inescapable when these facts are considered."* We do not find any reason to disagree with the above observations of the Commissioner (Appeals). Also, we find that the essential character of the item being porcelain as per Clause 3(b) of the General Rules for the Interpretation based on the essential character is the rightly classifiable under CTH 6907 90 90.

5. In view of the above discussions, the impugned order is upheld and the appeal is dismissed.

(Order pronounced in open court on 21.05.2024.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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