

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

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 21776 of 2016

(Arising out of Order-in-Appeal No. 87/2016-17 dated 09.09.2016 passed by the
Commissioner of Customs (Appeals), Cochin.)

M/s. JSW Steel Limited

....Appellant

Potteneri, Mecheri,
SALEM – 636 453.

VERSUS

Commissioner of Customs

....Respondent

New Custom House,
Cochin – 9.

APPEARANCE:

Shri M. S. Nagaraja, Advocate for the appellant.

Shri K. A. Jathin, Deputy Commissioner (Authorised Representative) for the
Revenue.

CORAM:

HON'BLE DR. D. M. MISRA, MEMBER (JUDICIAL)

HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

FINAL ORDER NO. 20529 / 2025

DATE OF HEARING: 06.01.2025

DATE OF DECISION: 28.04.2025

PER: R. BHAGYA DEVI

The appellant M/s. JSW Steel Limited, Salem, imported "Quick Lime Powder" and classified the same under Customs Tariff Heading (CTH) 2522 1000 of the Customs Tariff Act, 1975 under eight Bills of Entry as tabulated under:

Sl. No.	Bills of Entry No. & Date	Assessable Value (Rs.)	P D Bond No.
1	2770614/30.09.2015	32,06,823	TB 2000925923
2	2781776/01.10.2015	49,52,685	TB 2000926350
3	2968806/19.10.2015	1,08,51,571	TB 2000932413
4	3059290/27.10.2015	71,06,751	TB 2000932413
5	3128627/02.11.2015	45,62,358	TB 2000936930
6	3204076/09.11.2015	16,49,651	TB 2000939254
7	3238062/13.11.2015	15,24,700	TB 2000941774
8	3394860/27.11.2015	39,82,022	TB 2000932413

2. The Bills of Entry were assessed provisionally under Section 18(1)(b) of the Customs Act, 1962 as "Quick Lime" under CTH 2522 1000 and on payment of Customs Duties of 5% BCD + Nil CVD + 3% Cess + 4% SAD and cleared the same after drawing samples of imported "Quick Lime" for Chemical Examination. Thereafter, based on the Laboratory Test Results, show-cause notice dated 12.01.2016 was issued on the ground that the imported goods were rightly classifiable as 'Calcium Oxide' under CTH 2825 9090. The original authority vide Order-in-Original No.42/2016 dated 24.03.2016 finalized the assessment of 8 Bills of Entry re-classifying the imported "Quick Lime" as 'Calcium Oxide' under CTH 2825 9090 and demanded differential Customs duty of Rs.75,99,475/- along with applicable interest, which was upheld by the Commissioner of Customs (Appeals), Cochin. Aggrieved by this, the appellant is in appeal before us.

3. The Learned Counsel submitted that the Deputy Commissioner of Customs held that "Quick Lime" was obtained by burning of lime stone in a process called Calcination and that the calcined products get excluded from Chapter 25 by virtue of Note 1. Further, observed that CTH 2522 specifically excludes purified Calcium Oxide and Hydroxide of Heading 2825 which was upheld by the Commissioner (Appeals). It is submitted that Note 1 to Chapter 25 of the Customs Tariff Act, 1975 states as under:

"Except where their context or Note 4 to this Chapter otherwise requires, the headings of the Chapter cover only products which are in the crude state or which have been washed (even with chemical substances eliminating the impurities without changing the structure of the product), crushed, ground, powdered, levigated, sifted, screened, concentrated by floatation, magnetic separation or other mechanical or physical processes (except crystallization), but not products that have been roasted, calcined, obtained by mixing or subjected processing beyond that mentioned in each heading".

3.1. The "Quick Lime" is obtained by burning lime stone in Lime Kiln to liberate Carbon Dioxide leaving quick lime, since "Quick Lime" is obtained by burning of lime stone, a process otherwise

required, the said product is to be classified under CTH 2522 1000 and the conditions and restrictions in Note 1 of Chapter 25 are not attracted. Relying on the decision in the case of **Deepak Agro Solution vs. Commissioner of Customs: 2008 (227) ELT 52 (SC)** while interpreting Note 1 of Chapter 25 of the Customs Tariff Act, 1975 1985 has held as under:

"17. Chapter Note 1 of Chapter 25 starts with the words "except where their context or Note 4 to this Chapter otherwise requires".

It is, therefore, difficult to hold that the headings of the Chapter would cover only the products which are in the crude state or comes within the purview of other activities contained therein.

Interpretation of the said Note will depend upon the context in which the entries have been worded. If an entry is clearly worded and is broad in character, the same would lead to the conclusion that the context otherwise required.

18. *An entry is to be given its ordinary meaning. If any goods fit in within one entry, the same for any purpose would not be held to be included in the other and in particular the residuary. "*

3.2. Relying on the Hon'ble Supreme Court's decision in the case of **CC & CE vs. 20 Microns Ltd.: 2015 (324) ELT 14 (SC)**, it is submitted that the apex court examined the classification of Calcined China Clay, approved its classification under Heading 25.05 of Central Excise Tariff, held that it would not go out of its scope merely because of calcination. The relevant part of the judgment is extracted below:

"5. *Thus, the Show Cause Notice proceeded on the basis that as China Clay was calcined, it could not be included under Chapter Heading 25.05 and since Chapter Heading 38.24 mentions about some specified product including those consisting of mixture of natural products, it would fall under Chapter Heading 38.24.—*

6-8.

9. *The aforesaid contention is rejected by the CESTAT, and in our opinion, rightly so. In order to appreciate the reasons given by the CESTAT, we may have to address the history of Chapter 25, i.e., the provision which*

prevailed before the provision in question came into existence in 1990. Before the new provision was introduced in 1990, the same Chapter 25 which dealt with these very products contained different Head Note 2. This provision which remained in operation from 1986-1990 is –

"2. Heading Nos. 25.01, 25.03 and 25.05 cover only products which have been washed (even with chemical substances, eliminating the impurities without changing the structure of the product), crushed, ground, powdered, levigated, sifted, screened, or concentrated by flotation, magnetic separation or other mechanical or physical processes (except crystallisation), but not products that have been roasted, calcined or obtained by mixing."

10. *In the aforesaid Note, after mentioning the products, there is again an exclusion clause which excludes the products that have been roasted, calcined or obtained by mixing. Calcination was excluded there as well. However, when this Head Note is contrasted with Head Note 2 which was introduced in the year 1990, we find significant addition of words in the beginning of the said Note which are "except where the context otherwise requires". Therefore, the exclusion of calcination would not apply in respect of those products where the context otherwise includes calcination. Chapter Heading 25.05 which has already been reproduced above mentions under Entry 2505.10 "Kaolin and other kaolinic clays, whether or not calcined". It is not in dispute that the china clay otherwise is known as Kaolin as well and the process of Kaolin is same as that of china clay. Here the Kaolin is included under Entry 2505.10, i.e., under Chapter Heading 25.05, even when it is calcined. Therefore, it follows from the above that the context here requires such a product to remain included under Chapter 25.05 even when it is calcined. We find that the amended/new provision in the form of Chapter Note 2 as well as Entry 25.05 was made to bring it in tune with HSN Notes which have been produced for our perusal.*

11. *Chapter Note 1 of Chapter 25 of HSN Notes, which deals with mineral products is as under: -*

"1. Except where their context or Note 4 to this Chapter otherwise requires, the headings of this Chapter cover only product which are in the crude state or which have been washed (even with chemical substances eliminating the impurities without changing the structure of the product), crushed, ground, powdered, levigated, sifted, screened, concentrated by flotation, magnetic separation or other mechanical or

physical processes (except crystallisation), but not products which have been roasted, calcined, obtained by mixing or subjected to processing beyond that mentioned in each heading."

12. *Likewise, Chapter Heading 25.07 of HSN Notes which deals with Kaolin and other Kaolinic clays specifically mentions "whether or not calcined" as is clear from the reading of the same and we reproduce it hereunder: -*

"25.07 - Kaolin and other Kaolinic Clays, whether or nor calcined.

This heading covers kaolin and other kaolinic clays, the main constituents of which are kaolin minerals such as kaolinite, dickite and nacrite, anauxite, and halloysite. Such clays remain in the heading even when calcined.

Kaolin, also known as China clay, is a high grade, white or nearly white clay used in the porcelain and paper-making industries. Kaolin-bearing sands are excluded (Heading 25.05)."

13. *From the aforesaid discussion, it becomes clear that merely because the product of assessee, i.e., China Clay is calcined, it would not put it out of Chapter Heading 25.05.*

14. *We, thus, find order of the CESTAT without any blemish and are of the opinion that there is no merit in the instant appeal which is, accordingly, dismissed."*

In view of the above, the Appellant submits that the ratio of the aforesaid judgments is applicable to the facts of the case.

3.3. It is further stated that the HSN Explanatory Notes under Chapter 25.22 reads as under:

"25.22 – QUICKLIME, SLAKED LIME AND HYDRAULIC LIME, OTHER THAN CALCIUM OXIDE AND HYDROXIDE OF HEADING NO 28.15

2522.10	- Quick lime
2522.20	- Slaked lime
2522.30	- Hydraulic lime

Quicklime – *(an impure calcium oxide) is obtained by calcining limestone containing very little or no clay. It combines very rapidly with water, giving off considerable heat and producing slaked lime (calcium hydroxide) is usually employed for soil improvement or in the sugar industry.*

Hydraulic lime is obtained by low temperature calcinations of limestone containing sufficient clay (although usually less than 20%) to ensure that the product sets under water. Hydraulic lime differs from natural cement in that it still contains appreciable amounts of un combined quicklime, which may be slaked with water."

Quick Lime, described as impure Calcium Oxide, obtained by calcining limestone is classified under CHH 2522.10 in the HSN, notwithstanding Note 1 under Chapter 25. Further Rule 3(a) of the General Rules for Interpretation of the Customs Tariff Act, 1975 states as under: –

"(a) The heading which provides the most specific description shall be preferred to headings providing a more general description..."

Since CTH 2522 1000 specifically covers "Quick Lime" without any condition, the imported "Quick Lime" is rightly classifiable under CTH 2522 1000.

3.4. The learned Counsel further submits that the observation of the Commissioner (Appeals) that CTH 2522 also specially excludes purified Calcium Oxide and Hydroxide of Heading 2825 is contrary to facts inasmuch as the imported "Quick Lime" contains 92.2% Calcium Oxide with other impurities and cannot be treated as "pure" calcium oxide. Moreover, HSN Explanatory Notes under CTH 28.25 reads as under:

(11) **Calcium oxide, hydroxide and peroxide.** This heading covers only the Calcium Oxide (CaO) and the hydroxide (Ca (OH)₂), in the pure state (i.e., containing practically no clay, iron oxide, manganese oxide, etc.), such as the product obtained by calcining precipitated calcium carbonate.

The heading also covers fused lime obtained by fusing ordinary quicklime in an electric furnace. This product has a high degree of purity (**approximately 98% calcium oxide**); it is crystalline and generally colourless. It is used, in particular, for refractory linings for furnaces, in the manufacture of crucibles and for addition to concrete, in small pieces, to increase its resistance to wear.

Calcium peroxide (CaO₂) is a white or yellowish powder, hydrated (usually with 8 H₂O), sparingly soluble in water. Used as a bactericide and as a detergent, in medicine and in the preparation of cosmetics.

Therefore, in terms of HSN Explanatory Note under CTH 28.25 only covers Oxide (CaO) and Hydroxide (Calcium Hydroxide) **in the 'pure state'** and that the **'pure state'** means practically no impurities like Iron Oxide, Magnesium Oxide, etc. The Customs Chemical Examiner's Test Reports described the product as being in the form of white lumps and powder, contains Calcium Oxide to the extent of 92.2% with impurities like Silicon Oxide, Aluminium Oxide, Sodium Oxide, Ferric Oxide, Magnesium Oxide, etc. The imported goods were thus not **"pure"** Calcium Oxide and hence, excluded under CTH 2825 9090.

3.5. Further reliance was also placed on the judgment in the case of **CCE, Hyderabad-III Vs Bhadradi Minerals Pvt. Ltd.: 2015 (324) ELT 395 (T-Bang)**, wherein it was observed as:

"5.2 The Commissioner has taken note of the claim made by the respondent and their reliance on the Board's Circular dated 10-7-1991 after the issue was discussed in the Tariff Conference. For better appreciation of the relevant portion of the Board's Circular No. 112/6/91-CX3 (Circular No. 18/91-CX3), dated 10-7-1991 is reproduced below:

"A doubt has been raised as to whether in the light of Note (2) of Chapter 25 which states that Heading No. 2505 does not cover products that have been calcined etc., the burnt lime would get excluded from Heading No. 25.05. The point was discussed in the 1st south zone Tariff-cum-General Conference held at Hyderabad on and 23rd and 24th April, 1991. The conference observed that Note 2 of Chapter 25 was amended in the Budget of 1990 vide Note No. 106/90 C.E., dated 16-5-1990. As a result of the amendment, the words 'except where their context otherwise requires' were incorporated at the beginning of Note 2 of Chapter 25 this amendment was done with a view to aligning the Note with the corresponding Note in HSN. With the incorporation of the words referred to above, the burnt lime would merit classification under sub-heading No. 2505.60 notwithstanding the fact that the burnt lime is obtained by the process of calcination. The Conference was,

therefore, of the view that as there was specific mention of lime under Heading No. 25.05 it merits classification under that Heading.

2. The Board agrees with the decision of the conference. Accordingly, it is clarified that as there was a specific mention of lime under Heading 25.05 Burnt Lime would be appropriately classifiable under sub-heading 2505.60 of the schedule to CET Act, 1985".

5.3 HSN Explanatory Note under Tariff Heading 28.25 also excludes Calcium Oxide which has a purity less than 98% from Chapter 28 in view of the fact that what is covered under 28.25 is Calcium Oxide of purity 98%. The relevant Chapter Note is reproduced below :

"(11) Calcium Oxide, Hydroxide and Peroxide : This Heading covers only the oxide (CaO) and the hydroxide (CaOH), in the pure state (i.e. containing practically no clay, iron oxide, manganese oxide, etc.) such as the product obtained by calcining precipitated calcium carbonate;

The Heading also covers fused lime obtained by fusing ordinary quicklime in an electric furnace. This product has a high degree of purity (approximately) 98% calcium oxide; it is crystalline and generally colourless. It is used, in particular, for refractory linings for furnaces, in the manufacture of crucibles and for addition to concrete, in small pieces, to increase in resistance to water.

Calcium peroxide (CaO) is a white or yellowish powder, hydrated (usually with 8 H₂O) sparingly soluble in water. Used as a bactericide and as a detergent, in medicine and in the preparation of cosmetics.

Quicklime (calcium oxide) and slaked lime (calcium Hydroxide) are excluded (heading 25.22)".

5.4 The Commissioner has also taken note of the fact that the words "except where their context otherwise requires" was not there in the Chapter Note prior to 20-3-1990. The Chapter Note after 20-3-1990 reads as under:

"Except where their context otherwise requires, heading Nos. 25.01, 25.03 and 25.05 cover only products which have been washed (even with chemical substances, eliminating the impurities without changing the structure of the product), crushed, grinded, powdered, levigated, sifted, screened or concentrated by flotation, magnetic separation or other mechanical or physical processes (except crystallization), but not products that have been roasted, calcined, obtained by mixing or

subjected to processing beyond that mentioned in each heading or sub-heading”.

5.5 On the basis of Tariff heading, HSN Explanatory Note, Board's Circular, Chemical Examiner's report and the Chapter Note, it is necessary to consider whether 'Burnt Lime' manufactured by the respondent can be considered as Calcium Oxide classifiable under CTH 28.25.

5.6 The department's contention is based on the fact that the respondents are not manufacturing Burnt Lime by merely crushing, grinding, powdering levigating, sifting, etc. and therefore. Chapter Heading 25.05 cannot cover the item since what is happened to the raw materials is calcination. The Commissioner has taken a view that this claim cannot be accepted mainly because the Chapter Note is proceeded by the words "except where their context otherwise requires".

5.7 In the Tariff description, it is not specified 'Burnt Lime'. Lime includes Burnt Lime also. In fact, it includes all types of limes. It is to be noted that Tariff heading as it reads now does not have specific heading for Burnt Lime, Calcium Hydroxide, etc.

5.8 The claim of the department is that Note 1 to Chapter 28 provides that separate chemically defined compounds, whether or not containing impurities are covered. However, this submission is not supported by HSN Explanatory Note reproduced above as well as the Board's Circular referred to and discussed above. What is covered by Chapter 28.25 is Calcium Oxide which is of 98% purity or more. Admittedly in this case, the purity of the burnt lime is 70 to 75% only. Therefore, in view of the Board's Circular as well as HSN Explanatory Note, the product manufactured by the respondent has to be classified under CTH 25.05 only.

6. From the raw materials used, the process employed or the parameters of the resultant product show that the Burnt Lime manufactured by the respondent is not classifiable under CETH 28.25. Hon'ble Supreme Court has already held in the case of Commissioner of Central Excise, Shillong v. Wood Craft Products Ltd. [1995 (77) E.L.T. 23 (S.C.)] that HSN Explanatory Note can be used as a guide to resolve dispute relating to tariff classification and in this case, HSN Explanatory Notes as well as Board's Circular clearly support the stand taken by the respondent. Moreover, lime is specifically mentioned under Chapter Heading 28.25 and lime is general description and therefore, it can be said to cover 'Burnt Lime'.

7. In view of the above, we have come to the conclusion that the impugned order does not require any interference. Accordingly, the appeal filed by the Revenue is rejected."

3.6. In addition, the learned counsel had relied on the following judgments:

- Viraj Profiles Limited vs. CC (Preventive), MUMBAI: 2023 (10) TMI 1260 - CESTAT MUMBAI] approved by Hon'ble Supreme Court by dismissing Civil Appeal/Diary No. 9655/2024 by Order dated 01.4.2024.
- Jindal Stainless (Hisar) Ltd. Vs. CC, New Delhi: 2020-TIOL-1366-CESTAT-DEL
- Mukand Limited vs. CC (NS-I), RAIGAD: 2024 (4) TMI 81 - CESTAT MUMBAI

4. The learned Authorised Representative for the Revenue reiterated the findings of the Commissioner (Appeals) in the impugned order.

5. Heard both sides. The only issue to be decided is whether the product "Quick Lime" imported by the appellant falls under CTH 2522.10 or 2825.9090 of the Customs Tariff 1985. The classification by the Revenue is based on the Lab Test Results report which says that the sample is in the form of white lumps and powder; composed of mainly Calcium Oxide (Quick Lime) along with small amounts of compounds of Iron, Magnesium, Manganese, etc.; available CaO = 92.2% and based on the fact that the Chapter 25 includes mineral products in the crude state or washed, crushed, ground, powdered, or concentrated by floatation, magnetic separation or other mechanical or physical process and heat treatments like roasting, fusion or calcination are not allowed.

6. Let's examine the relevant Chapter Headings and the reasoning given by the Commissioner (Appeals) in the impugned order. The period of dispute is from September 2015 to November 2015. During this period the relevant tariff headings were as follows:

SECTION V - MINERAL PRODUCTS

Chapter 25: Salt; sulphur; earths and stone; plastering materials, lime and cement

Notes:

1. Except where their context or Note 4 to this Chapter otherwise requires, the headings of this Chapter cover only products which are in the crude state or which have been washed (even with chemical substances eliminating the impurities without changing the structure of the product), crushed, ground, powdered, levigated, sifted, screened, concentrated by flotation, magnetic separation or other mechanical or physical processes (except crystallization), **but not products that have been roasted, calcined, obtained by mixing or subjected to processing beyond that mentioned in each heading.**

2522 Quicklime, Slaked Lime and Hydraulic Lime, other than Calcium Oxide and Hydroxide of Heading 2825

2522 10 00 - Quicklime

2522 20 00 - Slaked lime

2522 30 00 - Hydraulic lime

The Commissioner (Appeals) rejected the classification of the product under CTH 2522 on the ground that it is calcined product which is excluded as per Note 1 reproduced above and classified the same under CTH 2825 as separately defined compound.

7. Now, let's see Chapter Heading 28, which is reproduced below:

Chapter 28: Inorganic chemicals, organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes.

Notes:

1. Except where the context otherwise requires, the headings of this Chapter apply only to:

(a) separate chemical elements and separate chemically defined compounds, whether or not containing impurities;

2825 90 - Other:

2825 90 10 --- Tin oxide

2825 90 20 --- Cadmium oxide

2825 90 40 --- Calcium hydroxide

2825 90 50 --- Ammonium hydroxide

2825 90 90 --- Other

8. As per the HSN Notes, Chapter 2522 which includes "Quick Lime" is explained as:

Quicklime – *(an impure calcium oxide) is obtained by calcining limestone containing very little or no clay.* It combines very rapidly with water, giving off considerable heat and producing slaked lime (calcium hydroxide) is usually employed for soil improvement or in the sugar industry.

Hydraulic lime is obtained by low temperature calcinations of limestone containing sufficient clay (although usually less than 20%) to ensure that the product sets under water. Hydraulic lime differs from natural cement in that it still contains appreciable amounts of un combined quicklime, which may be slaked with water."

This heading excludes purified calcium oxide and calcium hydroxide heading 2825.

Similarly, the HSN notes at Chapter heading 2825 explains as follows:

(11) **Calcium oxide, hydroxide and peroxide.** This heading covers only the Oxide (CaO) and the hydroxide (Ca (OH)₂), in the pure state (i.e., containing practically no clay, iron oxide, manganese oxide, etc.), such as the product obtained by calcining precipitated calcium carbonate.

The heading also covers fused lime obtained by fusing ordinary quicklime in an electric furnace. This product has a high degree of purity (**approximately 98 % calcium oxide**); it is crystalline and generally colourless. It is used, in particular, for refractory linings for furnaces, in the manufacture of crucibles and for addition to concrete, in small pieces, to increase its resistance to wear. Calcium peroxide (CaO₂) is a white or yellowish powder, hydrated (usually with 8 H₂O), sparingly soluble in water. Used as a bactericide and as a detergent, in medicine and in the preparation of cosmetics.

Quicklime (calcium oxide) and slaked lime (calcium hydroxide) are excluded (heading 2522)

9. Based on the above Tariff Headings and the Explanation given in the HSN Notes, it is very clear that "Quick Lime" is classifiable under CTH 2522 unless the chemical analysis proves that it has purity of 98% calcium oxide. Admittedly, in the present case, the purity is only 92%. Moreover, there is a specific classification of

the product "Quick Lime" under CTH 2522 1000 while the classification prompted by Revenue is 2825 9090 is only a 'Residuary Entry', and taking into consideration the Interpretative Rules of Classification, specific heading is to be preferred to the residuary entry unless it is established that the product is pure calcium oxide. The decision in the case of **CCE, Hyderabad-III vs. Bhadradi Minerals Pvt Limited** (supra) relied upon by the appellant has been brushed aside only on the ground that the product there was 80%, on the same analogy that the calcium oxide with purity less than 98% does not merit classification under CTH 2825.

10. This Tribunal in the case of **M/s. Viraj Profiles Limited vs. Commissioner of Customs (Preventive), Mumbai: 2023 (10) TMI 1260 - CESTAT Mumbai** dated 20.10.2023 in an identical set of facts observed as:

"14.2 From the test reports of samples of imported goods, which are relied upon documents in the adjudication proceedings, we find that the chemical test conducted by the Central Revenue Control Laboratory (CRCL), Jawaharlal Nehru Custom House, on the samples of imported goods and its report dated 18.04.2018 indicate that the description of the goods as 'white lumps of irregular shapes & sizes along with waste powder. It is mainly composed of calcium oxide (quick lime) along with traces of Iron & Silicious matter'. On the percentage of chemical composition, the report stated that 'available lime = 93.8%'. Further, one another such chemical testing of imported goods by CRCL in report dated 16.05.2018, indicate that the imported goods contain '92.27% of calcium oxide and 0.96% of magnesium oxide'. Further, the HSN explanatory notes in the second para of B(11) also specify that calcium oxide of high degree of purity i.e., app. 98% or more would alone gets covered under the scope of sub-heading 2825. As seen from the test reports, the content of calcium oxide or lime is much less than the requisite 98%. Thus, we are of the considered view that in terms of the HSN explanatory notes, both on account of presence of specified material making it not in pure state and the composition of calcium oxide not upto the requisite 98% making it not a product of high degree, would not enable the imported goods to be classified under sub-heading 2825.

.....

18. We also find that on similar issue of classification of quick lime the Coordinate Bench of the Tribunal in the case Jindal Stainless (Hisar) Ltd. (supra) had decided the appropriate classification of quick lime under chapter 25. The relevant paragraphs in the said order is extracted below:

"4. We have gone through rival submissions. It is seen that the goods imported by the appellant have purity in the range 95-97% as stated in the SCN. Certificated produced by the appellant shows the range to be slightly below that.

4.1 The heading 2522 reads as following:

"25.22- Quicklime, slaked lime and hydraulic lime, other than calcium oxide and hydroxide of heading 28.25."

2522.10- Quicklime"

It is seen that it specifically covers Quicklime under sub heading 2522.10. Chapter note 1 of chapter 25 prescribes as follows:

"Quicklime (an impure calcium oxide) is obtained by calcining limestone containing very little or no clay. It combines very rapidly with water, giving off considerable heat and producing slaked lime (Calcium hydroxide) The heading excludes purified calcium oxide and calcium hydroxide (heading 28.25)."

The HSN also prescribes as follows:

"1. Except where their context otherwise requires, but not products that have been roasted, calcined, obtained by mixing or subjected to processing beyond that mentioned in each heading."

4.2 It is seen that Revenue has relied on the decision of the Tribunal in the case of Nuchem Industries Pvt. Ltd. (supra) which was upheld by Hon'ble Apex Court. It is seen that the said decision has been given in the context of Central Excise duties. At the material time, Central Excise Tariff was not aligned to HSN. Learned Counsel for the appellant pointed out that the Central excise Tariff was align with HSN only with effect from 20.03.1990. He pointed out that this distinction has been specifically examined by Tribunal in the case of Bhadradi Minerals Pvt. Ltd. (supra) in para 5.1 and 5.2. In view of above, it is apparent that the said decision would render in different circumstances and, therefore, cannot be relied as binding precedent.

4.3 It is seen that the decision of Tribunal in the case of Bhadradari Minerals Pvt. Ltd. (*supra*) has been rendered in practically identical circumstances. The said decision relies on the HSN explanatory notes 11 under chapter heading 2825. The said chapter note provides as follows:

"5.3 HSN Explanatory Note under Tariff Heading 28.25 also excludes Calcium Oxide which has a purity less than 98% from Chapter 28 in view of the fact that what is covered under 28.25 is Calcium Oxide of purity 98%. The relevant Chapter Note is reproduced below :

"(11) Calcium Oxide, Hydroxide and Peroxide : This Heading covers only the oxide (CaO) and the hydroxide (CaOH), in the pure state (i.e. containing practically no clay, iron oxide, manganese oxide, etc.) such as the product obtained by calcining precipitated calcium carbonate;

The Heading also covers fused lime obtained by fusing ordinary quicklime in an electric furnace. This product has a high degree of purity (approximately) 98% calcium oxide; it is crystalline and generally colourless. It is used, in particular, for refractory linings for furnaces, in the manufacture of crucibles and for addition to concrete, in small pieces, to increase in resistance to water.

Calcium peroxide (CaO) is a white or yellowish powder, hydrated (usually with 8 H₂O) sparingly soluble in water. Used as a bactericide and as a detergent, in medicine and in the preparation of cosmetics.

Quicklime (calcium oxide) and slaked lime (calcium Hydroxide) are excluded (heading 25.22)".

In the instant case, it is not in dispute that what is imported has purity less than 98%. Therefore, the decision squarely applies to the facts of the case.

4.4 Revenue has relied on the Advance Ruling Authority given in the case of M/s Lhoist India Pvt. Ltd. (*supra*) wherein burnt lime having 94- 96% CaO was held to be classifiable under chapter heading 2825. The facts in the said case were significantly different. The said decision has been passed without taking note of chapter note 11 to

chapter 28. Moreover, in the said decision, Hon'ble Justice PV Reddy chairman of the authority has observed as follows:

"22. This is perhaps a rare case in which the applicant has come forward to pay duty for its product under Tariff Item 2825 90 90 instead of claiming duty relief available for quick lime. Apparently, the applicant being convinced of the correct classification, would like to avert the risk of availing the benefit the strength of decisions rendered in a different context and then facing a backlash at a later stage."

From the above it is apparent that the facts and circumstances were significantly different.

5. As a result of above observations, we find that the ratio of decisions of Tribunal in the case of M/s Bhadradi Minerals Pvt. Ltd. is applicable to the facts of the instant case. Therefore, the product is rightly classified under chapter 25. The appeal is consequently allowed."

19. In view of the foregoing detailed discussions, analysis and findings recorded in the above paragraphs, we conclude that the imported goods 'quicklime' would be appropriately classifiable under Customs Tariff Item 2522 10 00 and not as 'other' under the Customs Tariff Item 2825 90 90, as claimed by Revenue".

11. In the present case as discussed above, the chemical analysis clearly states that the purity is only 92% and accordingly, the product "Quick Lime" is rightly classifiable under CTH 2522 1000. Accordingly, the impugned order is set aside and appeal is allowed with consequential relief, if any, as per law.

(Order pronounced in the open court on 28.04.2025.)

(D. M. MISRA)
MEMBER (JUDICIAL))

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)