

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

REGIONAL BENCH - COURT NO. 2

Central Excise Appeal No. 20541 of 2016

(Arising out of Order-in-Appeal No. 07/2016-CE dated 26.02.2016 passed by
the Commissioner of Central Excise (Appeals – I), Bangalore.)

**M/s. Karnataka Co Operative Oil Seeds Grower Federation
Limited**

No. 218, Whitefield Road,
Bangalore – 560 066.

.....Appellant(s)

VERSUS

The Commissioner of Central Excise,

P.B. No.5400, CR Buildings, Bangalore,
Karnataka - 560001

....Respondent(s)

Appearance:

Mr. S. Prabhakar, Advocate for the Appellant

Ms. Money Jain, Authorized Representative for the Respondent

CORAM:

Hon'ble Mr. P.A. Augustian, Member (Judicial)

Hon'ble Mr. Pullela Nageswara Rao, Member (Technical)

Final Order No. 21399 /2025

Date of Hearing: 12.08.2025

Date of Decision: 12.08.2025

PER: P.A. AUGUSTIAN

The issue in the present appeal is regarding classification of the coconut oil packed in small containers up to 200ml capacity will be under Chapter Heading 15 or 33 CETA, 1985.

2. The brief facts are the Appellant is engaged in the process of refining and packing of edible oil and coconut oil. Appellant is processing and packing coconut oil in containers of sizes 50ml, 100ml and 200ml.

The edible oil falls under Chapter Heading 15 of the Central Excise Tariff Act, 1985. During investigation, it was found that the appellant had manufactured and removed coconut oil to their customer in small containers up to 200ml as hair oil. Further appellant had obtained Central Excise Registration falling under Chapter sub-heading (CETSH) 3305 9019 for hair oil. Alleging that the said coconut oil is chargeable to excise duty, proceedings were initiated and Adjudicating Authority vide Order-in-Original dated 31.05.2013 confirmed the demand of Rs. 38,33,766/- and appropriated the amount of Rs.37,20,769/- towards duty and Rs.2,27,789/- towards interest and also imposed equal penalty of Rs. 38,33,766/-. Aggrieved by said order, an appeal was filed before Commissioner (Appeals) and Commissioner (Appeals) as per order dated 30.04.2014 upheld the duty demand, interest and appropriation of duty and interest and remanded the matter to the Adjudication Authority to pass a fresh order with regard to imposition of penalty. Thereafter, Adjudicating Authority vide Order-in-Original dated 12.03.2015 recalculated penalty and imposed penalty of Rs. 21,99.739/-, aggrieved by said order, appellant had filed an appeal before Commissioner (Appeals), who had rejected the appeal. Aggrieved by the impugned order of Commissioner (Appeals), present appeal is filed.

3. When the appeal came up for hearing, Learned Counsel for the appellant submits that the issue is no more *res-integra* and the issue is squarely covered by the decision of Hon'ble Supreme Court in the matter of **CCE Vs. M/s. Madhan Agro Industries (India) Private Ltd. in Civil Appeal No. 1766/2009 -2025(391) ELT 145(SC)** wherein it is held that :-

"48. On the above analysis, we are of the opinion that pure coconut oil sold in small quantities as 'edible oil' would be classifiable under Heading 1513 in Section III-Chapter 15 of the First Schedule to the Central Excise Tariff Act, 1985, unless the packaging thereof satisfies all the requirements set out in Chapter Note 3 in Section VI-Chapter 33 of the First Schedule to the Central Excise Tariff Act, 1985, read with the General/Explanatory Notes under the

corresponding Chapter Note 3 in Chapter 33 of the Harmonized System of Nomenclature, whereupon it would be classifiable as 'hair oil' under Heading 3305 in Section VI-Chapter 33 thereof".

4. Learned Authorized Representative (AR) fairly admits that the issue is covered by the decision of Hon'ble Supreme Court in the matter of **M/s. Madhan Agro Industries** (supra) and the Board's Circular No. 1007/14/2015-CX dated 12.10.2015.

5. Heard both sides and perused the records.

6. We find that the issue is no more *res-integra* and is covered by the decision of this Tribunal in the matter of M/s. Capital Technologies Ltd. and Others Vs. Commissioner of Central Excise & Service Tax, Tirupati and the Circular No. 1007/2015 dated 12.10.2015 where it is clarified that:-

"3.1. In case of Raj Oil Mills Ltd. vs. Commissioner, Central Excise [2014 (314) ELT 541/2013-TIOL-1609 CESTAT], Hon'ble Tribunal held that edible Coconut Oil in retail packing of 200ml or less is classifiable under Chapter 15 covering Animal or Vegetable Fats and Oils and not under Chapter 33 covering Cosmetics and Toilet Preparation. Civil Appeal filed by the department against the order in the Hon'ble Supreme Court has been dismissed on merits.

3.2 In the case of Capital Technologies Ltd. & Ors vs CCE, Tirupati reported in [2015(321) ELT 479/2011-TIOL-775-CESTAT], Hon'ble Tribunal examined the issue of classification of Coconut Oil packed in retail packs of 50 ml, 100 ml, 200 ml and 500 ml. After discussing the amendments to Chapter note 3 to Chapter 33 and Section Note 2 to Section VI w.e.f 28.02.2005, Tribunal held that the edible coconut oil packed in retail packs ibid would be classifiable as Coconut oil under heading no. 1513 and not as Hair oil under heading no. 3305. Civil Appeal filed by the department against the order has been dismissed by the Hon'ble Supreme Court on facts only.

4. *In view of the above judgment of the Hon'ble Supreme Court, the Central Board of Excise & Customs withdrew Circular No. 890/10/2009-CX dated June 03, 2009. The issue of classification may be decided by the field taking into consideration the facts of the case read with the judicial pronouncements."*

7. Further we find that the issue is squarely covered by the decision of Hon'ble Supreme Court in the matter of **CCE Vs. M/s. Madhan Agro Industries (India) Private Ltd.** (supra).

8. In view of the above discussion the impugned order upholding the penalty is liable to be set aside. Accordingly the impugned order is set aside and the appeal is allowed with consequential relief, if any, in accordance with law.

*(Operative portion of the order was pronounced in Open Court
on conclusion of hearing.)*

(P.A. AUGUSTIAN)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

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