IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
SOUTH ZONAL BENCH AT CHENNAI

E/ROM/41973/2017, E/MISC (CT)/40195/2018 in E/271/2009
E/ROM/41974/2017 in E/289/2009
E/ROM/41975/2017 in E/241/2010
E/ROM/41978/2017 in E/250/2010
E/ROM/41976/2017, E/MISC (CT)/40196/2018 in E/395/2010
E/ROM/41979/2017 in E/442/2010
E/ROM/41977/2017, E/MISC (CT)/40194/2018 in E/40323/2013

M/s. EID Parry India Ltd. Applicants

Vs.

CCE & ST, LTU, Chennai Respondent

Date of Hearing/Decision: **29.05.2018**

Appearance

Shri Muthu Venkataraman, Advocate
for the Appellant

Shri K.P. Muralidharan, AC (AR)
for the Respondent.

CORAM

Hon'ble Shri V. Padmanabhan, Member (Technical)
Hon'ble Shri P. Dinesha, Member (Judicial)

MISC. ORDER Nos. **40483-40492/2018**

Per: V. Padmanabhan,

The present applications for rectification of mistake apparent on record have been filed in relation to the Final Order Nos. 42061-42073/2017 dated 15.09.2017. In this connection we heard the Ld. Counsel, Shri Muthu Venkataraman on behalf of the applicants and the Ld. AR, Shri K.P. Muralidharan, AC, on behalf of the Revenue.

2. The Ld. Counsel submitted that the Tribunal vide the impugned order has ordered classification of the product manufactured by the appellants under CETH 3101 0099. In para 17 of the above final order, the Tribunal has recorded that the appellant will not be eligible for the benefit of exemption Notification No. 23/2003-CE dated 31.03.2003 and that differential duty was payable for normal period. He pointed out that the tariff rate for the above CETH was 'nil' during the entire period of dispute and hence the appellant will not be liable to pay any duty irrespective of the benefit of the Notification No. 23/2003-CE. Accordingly, he submitted that the findings of the Tribunal upholding the demand for differential duty for the period under dispute may be modified.

3. The Ld. DR has no objection.

4.1 After hearing both the sides and on perusal of records, we note that in the final order referred above the Tribunal, after careful consideration of the two alternate classifications for the products under Chapter 38 and Chapter 31 has ordered classification of the product under CETH 3101 0099. Since the above CETH carries 'nil' rate of duty during the disputed period, no liability is cast upon the appellant for the disputed period irrespective of the benefit of Notification No. 23/2003-CE.

4.2 In the result, the final order is modified as follows:-

In para-17 of the impugned order; after the first sentence the following portion may be deleted:-

> "The claim for exemption under Notification No. 23/2003-CE, wherever duty is payable is not sustainable in view of violation of condition No. 3 (i) of the notification as discussed. Demand for differential duty, if any, will be applicable only for normal period."

In the result ROM applications are allowed as above.

5. The miscellaneous applications for change of cause title have been filed by the Revenue due to change in the jurisdiction of the appellant and change in address of the respondent. The present jurisdiction and address of the respondent is as follows:-

The Commissioner of GST & Central Excise,
No.1, Williams Road, Trichy

Accordingly, the miscellaneous applications are allowed and the jurisdiction and address of the respondent is changed from CCE, LTU, Chennai to The Commissioner of GST & Central Excise, No.1, Williams Road, Trichy.

7. All the miscellaneous applications filed by the Revenue for change of cause title and all the miscellaneous applications filed by the applicant for rectification of mistake are allowed in above terms.

(Order dictated and pronounced in the open court)

(P. DINESHA)
MEMBER (JUDICIAL)

(V. PADMANABHAN)
MEMBER (TECHNICAL)

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