

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.**

PRINCIPAL BENCH,
COURT NO. III

CUSTOMS APPEAL NO. 50163 OF 2021

[Arising out of the Order-in-Original No. 05/COMMR/MS/HALDIRAM/ICD-PPG/2020 dated 23/09/2020 passed by The Commissioner of Customs, Inland Container Depot, Delhi – 110 096.]

M/s Haldiram Snacks Pvt. Ltd.,

A-11, Sector 68, Noida,
U.P. – 201 301.

Appellant

VERSUS

The Commissioner of Customs

Inland Container Depot,
Patparganj & Other ICDs,
Delhi – 110 096.

Respondent

APPEARANCE

Shri B.L. Garg, Advocate – for the appellant.

Shri Munshi Ram Dhania, Authorized Representative for the Department.

CORAM:

HON'BLE SHRI SOMESH ARORA, MEMBER (JUDICIAL)

HON'BLE SHRI RAJEEV TANDON, MEMBER (TECHNICAL)

FINAL ORDER NO. 50865/2023

DATE OF HEARING/DECISION : 30.06.2023.

SOMESH ARORA

The learned Advocate for the appellant points out that in the instant case they have imported a system, which is called snacks cooking system with standard accessories and classified the same into Tariff Heading 84388090, which is a general residuary head and reads general "Machinery not specified or included elsewhere in this chapter, for the industrial preparation or manufacture of food or drink, , other than machinery for the extraction or preparation of animal or fixed vegetable fats or oils".

2. As against this the Department sought to classify the system under Heading 84198190 which reads as "Machinery, Plant or Laboratory Equipment, whether or not electrically heated (excluding furnaces, ovens and other equipment of heading 8514), for the treatment of materials by a process involving a change of temperature such as heating, cooking of temperature such as heating, cooking, roasting, distilling, rectifying, sterilizing, pasteurizing, steaming, drying, evaporating, vaporizing, condensing, or cooling, other than machinery or plant of a kind used for domestic purposes, instantaneous or storage water heaters, non-electric".

3. The learned Advocate further points out that the DGFT while granting EPCG license also classified the product as they have done, so that heading which they claimed before the Customs Authority was also the heading by the DGFT authorities. He also places reliance on a ruling of classification of machinery for potato snack, which indicates the head as 84386000 but as stated by them pertains to other jurisdiction and can only be of persuasive value. The learned Authorized Representative points out that correct reasoning has been adopted by the authorities below and takes us to finding portion of the impugned order, passed by learned Commissioner to emphasize that the specific head of 8419 must prevail over the heading 8438, which is the residuary head and cannot be accept without rulings out other heads. Considered rival submissions, we find that the heading suggested by the party is of machinery just for manufacturing, but not specific to the cooking and is definitely a residuary head as against that, the heading of Department of chapter 8419 is specific as it is meant for cooking, therefore, out of two

contesting head the Chapter Heading 8419 is more appropriate. We find that Rule of interpretation of "Generalibus Specialia Derogant" (special things derogate from general things) and which is also incorporated in Rule 3(a) of General Rules of interpretation of the 1st Schedule to Customs Tariff Act, 75, and which provides that "the heading which provides the most specific description shall be preferred to headings providing a general description" further supports our reasoning. Accordingly, we find no infirmity in the order of the authorities below, however, we make it clear that we are not commenting anything about export obligation fulfillment by the party as the same is a matter not before us and pertains to D.G.F.T authorities. Accordingly, the duty element also will get crystallized only on export obligation not being fulfilled, as the party may get certified or otherwise. Appeal is therefore, dismissed, with the aforesaid observation.

(Order dictated and pronounced in open court.)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(RAJEEV TANDON)
MEMBER (TECHNICAL)