CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing/decision: 17.01.2018

Appeal No. E/50666/2017 EX (DB)
[Arising out of Order-in-Appeal No.BHO-EXCUS-001-APP-445-16-17 dated 18/11/2016 passed by Commissioner of Central Excise-INDORE (Appeal)]

M/s IPF Vikram India Ltd. … Appellant

Vs.

CCE & ST Indore … Respondent

Appearance:
Present Mr J.M. Sharma, Advocate for the appellant
Present Mr R.K. Mishra, AR for the respondent

Coram: Hon'ble Justice Dr. Satish Chandra, (President)
Hon'ble, V. Padmanabhan (Technical Member)

FINAL ORDER No. 50210/2018

Per Justice Dr. Satish Chandra

1. The present appeal is filed against the Order-in-Appeal No. 445/2017 dated 18/11/2016.
2. The brief facts of the case are that the appellant is a manufacturer on contract basis for ***M/s Hindustan Uniliver Ltd. (HUL).*** The appellant is manufacturing of detergent known as "Vim Dish Wash Bar". The dispute in the present appeal is that the Department wants to classify the item under sub-heading 3401.20 of the Central Excise Tariff Act but the assessee wants to classify under sub-heading 3405.400.
3. The difference of the duty with the sub-headings is only 0.22 per cent.

4. Hear Shri J.M. Sharma, Ld. Counsel for the appellant and Shri R.K. Mishra, DR for the Revenue.

5. After hearing both the parties and on perusal of record it appears that the identical issue has come up before the Hon'ble Supreme Court in the case of ***CCE, Trichy V/s Naga Ltd. 2007 (212) E.L.T. 452 (SC)*** where it was observed that:-

> *3. We quote herein below Heading No. 34.01 as well as Chapter sub-heading 3401.10 and Chapter sub-heading 3401.20:*
>
> > *34.01- Soap; organic surface-active products and preparations for use as soap, in the form of bars, cakes, moulded pieces or shapes, whether or not containing soap; paper, wadding, felt and non-wovens, impregnated, coated or covered with soap or detergent;*
> > *3401.10-Soap in any form;*
> > *3401.20- Organic surface-active products and preparations for use as soap in the form of bars, cakes moulded pieces or shapes;*
>
> *4. We also quote herein below Chapter Note No. 2 which reads as follows:*
>
> > *"For the purposes of heading No. 34.01,'soap' applies only to soap soluble in water, Soap and the other products of heading No. 34.01 may contain added substances (for example, disinfectants, abrasive powders, filters or medicaments). Products containing abrasive powders remain classified in heading No. 34.01 only if in the form of bars, cakes or moulded pieces or shapes. In other forms, they are to be classified in heading No. 34.05 as "scouring powders and similar preparations."*
>
> *We quote herein below Chapter sub-heading 3405.40:*
>
> > *"Scouring pastes and powders and other scouring preparations"*
>
> *5. On reading the above headings and the sub-headings we find that Heading No. 34.01 broadly refers to soap as one of the products covered by that Heading, the other product which in covered by 34.01 as 'organic surface-active product and preparation' for use as soap. These are two distinct products. We agree with the view expressed by the Tribunal that Vim Dish Wash Bar is not soap. We also find merit in the contention advanced on behalf of the assessee that Vim Dish Wash Bar is not an organic surface-active product for use as a soap, but it is used for scouring. In the circumstances, Heading No. 3401.20 is not applicable. It is neither a soap nor an organic surface-active product for use as soap. Consequently, Chapter Note 2 to Chapter 34 also has no application. Further, as held by the adjudication authority Vim Dish Wash Bar is a mixture of detergent and abrasive powders. In the circumstances, we*

> *are of the view that Rule 3(b) of the Rules of interpretation would also apply and in the present case the chemical examiners indicate that pre-dominantly the above product in question contains abrasive powder to the extent of 62% to 72%.*

6. By following the decision of Hon'ble Supreme Court (supra), we find no reason to sustain the impugned order. Hence, the same is hereby set aside.
7. In the result, the appeal filed by the appellant is allowed.

[Order Dictated and Pronounced in the open court]

(V. Padmanabhan) **Member (Technical)**	**(Justice Dr Satish Chandra)** **President**

Rekha