

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
KOLKATA**

REGIONAL BENCH – COURT NO.2

Customs Appeal No.75258 of 2023
Customs Appeal No.75259 of 2023

(Arising out of Order-in-Appeal Nos.Kol/Cus/Port/KS/117/2023 dated 13.02.2023 & Kol/Cus/Port/KS/110/2023 dated 09.02.2023 both passed by Commissioner (Appeals) of Customs, Kolkata)

M/s Shree Balaji Industries

Madhabpur, Mitrapara, Uluberia, P.O.-Mahusrekha, Howrah-711303

Mr.Manish Agarwal

33/1, Netaji Subhas Road, Room No.323, 3rd Floor, Marshall House, Kolkata-700001

Appellant

VERSUS

Commissioner of Customs (Port), Kolkata

15/1, Strand Road, Kolkata-700001

Respondent

APPEARANCE :

Shri Arijit Chakraborty, Advocate for the Appellant

Shri Subrata Debnath, Authorised Representative for the Respondent

CORAM:

HON'BLE MR.ASHOK JINDAL, MEMBER (JUDICIAL)

HON'BLE MR.K.ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO...75891-75892/2023

DATE OF HEARING : 16 .06.2023

DATE OF DECISION : 16 .06.2023

Per Ashok Jindal :

The appellants are in appeal against the impugned order denying the benefit of Notification No.13/2015-2020 dated 15.07.2020.

2. The facts of the case are that the appellant filed Bills of Entry stating that the goods are agricultural soil preparation parts : Blade (Assorted Model).

2.1 The DRI Unit Kolkata, informed that the goods covered by the Bills of Entry, were examined by the Chartered Engineer, who has clarified that the goods are parts of power tiller. As such, the goods appears to be restricted as per Policy Notification No.19/2015-2020

Customs Appeal Nos.75258,75259/2023

dated 15.07.2020 of DGFT. Therefore, the goods were seized and as sought by the appellants for provisional release of the goods in question. But for the items in question i.e power weeder parts, were known as rotary tiller blade and absolutely confiscated the same.

2.2 On appeal, the Id.Commissioner (Appeals) confirmed the adjudication order.

2.3 Against the said order, the appellant is before us.

3. The short issue involved in these cases is as to whether the goods in question are restricted as per Policy Notification No.19/2015-2020 dated 15.07.2020 issued by DGFT or not.

4. For better appreciation, the said Notification is extracted herein below :

61 ✓

To be published in the Gazette of India Extraordinary Part-II, Section-3, Sub-Section (II)

Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Foreign Trade

Notification No. 19/2015-2020
New Delhi, Dated: 15th July, 2020

Subject: Amendment in import policy and policy conditions of items under Chapter 84 of ITC (HS), 2017, Schedule – I (Import Policy).

S.O. (E): In exercise of powers conferred by Section 3 of FT (D&R) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2015-2020, as amended from time to time, the Central Government hereby amends the import policy and import policy conditions of items under Chapter 84 of ITC (HS), 2017, Schedule – I (Import Policy).

Exim Code	Item Description	Present Policy	Revised Policy	Present Policy Condition	Revised Policy Condition
8432 8020	Rotary tiller	Free	Restricted	-	Subject to Policy Condition 3 of this Chapter
8432 9090	Other	Free	Restricted	-	Subject to Policy Condition 3 of this Chapter

2. A new Policy Condition No. 3 is being added in Chapter 84 of ITC (HS), 2017, Schedule – I (Import Policy) as follows:

3. **Import Policy for Power Tillers and its components:**

- Under HS code 8432 8020, Import is 'Free' for all items except Power Tillers as defined in IS: 13539-2018.
- Under HS code 8432 9090, Import is 'Free' for all items except for Engine, Transmission, Chassis and Rotavator forming parts of Power Tillers as defined in IS: 13539-2018.
- Definition of Power Tillers as per IS:13539-2018: Power Tiller is an agricultural machinery used for soil preparation having a single axle, in which the direction of travel and its control during field operation is performed by the operator. It is self-powered, self-propelled, and can pull cultivator, harrow, plough, various seeder, harvester and such other suitable attachments. The equipment may be walk behind or riding attachment type and should be capable of being coupled to a trailer that can be used for transportation of goods of not less than 1 ton capacity. The maximum speed of the power tiller when coupled to a trailer shall not exceed 22 kmph. The minimum rated horse power output of the power tiller engine shall not be less than 8 bhp (Brake Horse Power).


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: 2 :

Effect of the Notification: Import Policy of Power Tillers and its components is amended from 'Free' to 'Restricted'.

This issues with the approval of Minister of Commerce & Industry.


15/01/2023
(Amit Yadav)

Director General of Foreign Trade &
Ex- officio Addl. Secretary to the Government of India

(Issued from F.No. 01/89/180/48/AM-13/PC-2[A]/E-5928)

Note: The principal notification No: 36/2015-2020, dated the 17th January, 2017 was published in the Gazette of India, Extraordinary vide number S.O. 172 (E), dated the 17th January, 2017.

5. We find that the said Notification restricts the items, namely, Engine, Transmission, Chassis and Rotavator forming parts of Power Tillers as defined in IS : 13539-2018. The Power Tiller is an agricultural machinery used for soil preparation having a single axle, in which the

direction of travel and its control during field operation is performed by the operator. It is self-powered, self-propelled and can pull cultivator, harrow, plough, various seeder, harvester and such other suitable attachments.

6. From the said definition, nowhere it restricts the Power Beeder Parts in question are agricultural soil preparation parts : Blade.

7. In that circumstances, we hold that the restriction made by the above cited Notification No.19/2015-2020 dated 15.07.2020 issued by DGFT, does not put any restriction for importation of the goods in question.

8. Therefore, we hold that the agricultural soil preparation parts : Blade, are not restricted items as per the said Notification. Therefore, the impugned absolute confiscation of goods in question is set aside and the appeals are allowed with consequential relief, if any.

(Dictated and pronounced in the open court)

Sd/-
(Ashok Jindal)
Member (Judicial)

Sd/-
(K.Anpazhakan)
Member (Technical)

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