

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA**

REGIONAL BENCH - COURT NO.1

Customs Miscellaneous Application No.75275 of 2016 (Stay)
(On behalf of Appellant)

And

Customs Appeal No.75675 of 2016

(Arising out of Order-in-Appeal No.KOL/CUS(Port)/AA/187-192/2015 dated 29.10.2015 passed by Commissioner of Customs (Appeals), Kolkata.)

Commissioner of Customs (Port), Kolkata
(15/1, Strand Road, Custom House, Kolkata-700001.)

...Appellant

VERSUS

M/s. Greaves Cotton Limited

.....Respondent

(M/s. Ganga Hightech Private Limited, 23, Ganesh Chandra Avenue, Kolkata-700013.)

WITH

(i) Customs Miscellaneous Application NO.75277 of 2016 (Stay) & Customs Appeal No.75676 of 2016 (Commissioner of Customs (Port), Kolkata Vs. M/s. Greaves Cotton Limited); (ii) Customs Miscellaneous Application NO.75279 of 2016(Stay) & Customs Appeal No.75677 of 2016 (Commissioner of Customs (Port), Kolkata Vs. M/s. Greaves Cotton Limited); (iii) Customs Miscellaneous Application NO.75281 of 2016(Stay) & Customs Appeal No.75678 of 2016 (Commissioner of Customs (Port), Kolkata Vs. M/s. Greaves Cotton Limited); (iv) Customs Miscellaneous Application NO.75283 of 2016(Stay) & Customs Appeal No.75679 of 2016 (Commissioner of Customs (Port), Kolkata Vs. M/s. Greaves Cotton Limited); (v) Customs Miscellaneous Application NO.75285 of 2016(Stay) & Customs Appeal No.75680 of 2016 (Commissioner of Customs (Port), Kolkata Vs. M/s. Greaves Cotton Limited);

(Arising out of Order-in-Appeal No.KOL/CUS(Port)/AA/187-192/2015 dated 29.10.2015 passed by Commissioner of Customs (Appeals), Kolkata.)

APPEARANCE

Shri S.Debnath, Authorized Representative for the Revenue
NONE for the Respondent

**CORAM: HON'BLE SHRI ASHOK JINDAL, MEMBER(JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER(TECHNICAL)**

**MISCELLANEOUS ORDER NO. 75254-75259/2023
FINAL ORDER NO. 75748-75753/2023**

DATE OF HEARING : 19 June 2023
DATE OF DECISION : 19 June 2023

Per : ASHOK JINDAL :

The Revenue is in appeal against the impugned order No.KOL/CUS(Port)/AA/187-192/2015 dated 29.10.2015.

2. The facts of the case are that the respondent imported several consignments of Power Tillers/Rotary Tillers with standard tools and accessories from China by claiming the benefit of Notification No.12/2012-Cus dated 17.03.2012 Sl.No.399(A). Initially, the benefit of Notification was given. Later on, the matter was re-assessed and the benefit of Notification was denied. The respondent paid duty under protest and sought speaking order holding that the benefit of the said Notification is entitled for rotary tiller and not power tiller. On appeal, the Ld.Commissioner(Appeals) allowed the benefit of the above cited Notification and the demand of duty was dropped. Against the said order, the Revenue is in appeal.

4. The Ld. A.R. for the Revenue, has relied on the decision of this Tribunal in the case of Commissioner of Customs (Port), Kolkata Vs. Chirag Corporation reported in 2020 (374) ELT 444 (Tri.- Kolkata), wherein it has been held that the benefit of the said Notification was denied.

3. We find that the issue has been settled by this Tribunal in the case of BTL EPC Limited & Chirag Corporation vide Final Order No.75478-75479/2022 dated 17th August 2022 wherein it has been held that the rotary tiller and the power tiller are the self-same and the assessee is entitled for the benefit of exemption Notification No.12/2012-Cus dated 17.03.2012 Sl.No.399(A).

4. We also find that the order of this Tribunal was challenged before the Hon'ble High Court and in remand in the case of Chirag Corporation (supra), this Tribunal has taken a view that power tiller and rotary tiller are the same goods.

5. As the issue has already been settled by this Tribunal holding that the rotary tiller and the power tiller are the same goods, therefore, we hold that the respondent is entitled for the benefit of Notification No.12/2012-Cus dated 17.03.2012 Sl.No.399(A).

6. In view of this, the impugned order is upheld and the appeals filed by the Revenue, are dismissed. Customs Miscellaneous Applications (Stay), filed by the Revenue, also get disposed of.

(Dictated and pronounced in the open Court.)

Sd/

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)