

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

REGIONAL BENCH – COURT NO.2

Customs Appeal No.76216 of 2016
Customs Appeal No.76217 of 2016

(Arising out of Order-in-Appeal No.Kol/Cus (Port)/75/2016 dated 28.04.2016 passed by Commissioner (Appeals) of Customs, Kolkata)

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

Appellant

VERSUS

M/s Regent Electro Mech Pvt. Ltd.
Regent Tower, GN-24, Sector V, Salt Lake City, Kolkata-700091

Respondent

APPEARANCE :

Shri Monish Mohan, Authorized Representative for the Appellant
None for the Respondent

CORAM:

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

FINAL ORDER NO...75735-75736/2023

DATE OF HEARING : 16 .06.2023

DATE OF DECISION : 16 .06.2023

Per Ashok Jindal :

The Revenue has filed these appeals against the impugned orders, wherein it has been held that the respondents are eligible to avail the benefit of Notification No.12/2012 dated 17.03.2012 for import of the impugned goods.

2. The facts of the case are that the respondents imported "Phelps Dodge Brand Electrical Cable 132 KV (EHT Cables = Extra High Tension Cables". The respondents claimed the exemption under Notification No.12/2012 dated 17.03.2012 Sl.No.376. The adjudicating authority denied the benefit of the said Notification and assessed the normal rate of duty against the said order. The respondents preferred the appeals

Customs Appeal Nos.76216,76217/2016

before the Id.Commissioner (Appeals), who allowed the benefit of Notification No.12/2012 dated 17.03.2012 Sl.No.376. Against the said order, the Revenue is before us.

3. Heard the Id.A.R. for the Revenue.
4. None appeared on behalf of the respondents.
5. After hearing the Id.A.R. for the Revenue, we find that said issue came up before the Tribunal in the Commissioner of Customs (Port), Kolkata Vs. Tata Steel Ltd. reported in 2019 (369) ELT 1240 (Tri.-Kolkata), wherein the facts are as under :

"2. The brief facts of the case are that the respondent-assessee had imported "Extra High Tension cable" exceeding the voltage of 33,000 volt. In fact the cable imported by the respondent is meant to carry 132k volt current. As the definition under the Indian Electricity Act and various State Electricity Acts the extra high tension means voltage exceeds 33,000 volts. As per Notification No. 21/2002-Cus., Sl. No. 244 (List 26), item No. 13, the benefit is extended to "Extra High Tension Cable". The department has solely relied upon the definition as contained in McGraw Hill dictionary. The definition under the McGraw Hill dictionary is as under :

"British term for the high direct current voltage to second anode in a cathode ray tube ranging from about 4000 to 50000 volts in various sizes of tubes abbreviated EHT"

The Tribunal in the above cited case, has observed as under :

"3. After going through the definition as contained in McGraw Hill dictionary it appears that the same confined only to Cathode Ray Tube (CRT) which are generally used to manufacture of computer monitor and picture tube of T.V. etc. The imported cable does not belong to that category. Therefore, the Ld.

Customs Appeal Nos.76216,76217/2016

Commissioner (Appeals) has rightly set aside the order of the Lower Adjudicating Authority and by extending the benefit under the notification. We find no infirmity in the order of the impugned order, so the same is hereby sustained. The appeal filed by the Revenue is dismissed."

6. Further, we have gone through the grounds of appeals. The ground, which has been taken for filing these appeals, is that the matter in the case of Tata Steel Ltd., is pending before this Tribunal. Therefore, the appeals are filed.

7. As the issue has already been settled in favour of Tata Steel Limited by this Tribunal by the cited judgement herein above, relying on the same, we hold that the respondent are entitled for Notification No.12/2012 dated 17.03.2012 Sl.No.376.

8. In view of this, we do not find any infirmity in the impugned orders, accordingly, the same are upheld.

9. In the result, the appeals filed by the Revenue are dismissed.

(Dictated and pronounced in the open court)

Sd/-
(Ashok Jindal)
Member (Judicial)

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