

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

REGIONAL BENCH – COURT NO. 1

Excise Appeal No. 76595 of 2016

(Arising out of Order-in-Original No. 34/Commissioner/CE/Haldia/Adjn/2016 dated 20.06.2016 passed by the Commissioner of Central Excise & Service Tax, 25, Princep Street, 3rd Floor, Kolkata – 700 072)

M/s. Grain Processing Industries (I) Pvt. Ltd. : Appellant
Howrah Makardah Road, Kantalia, Makardah,
Howrah – 711 409

VERSUS

Commissioner of Central Excise and Service Tax : Respondent
Haldia Commissionerate,
25, Princep Street, 3rd Floor,
Kolkata – 700 072

APPEARANCE:

Shri Aditya Dutta, Advocate, for the Appellant

Shri S.K. Dikshit, Authorized Representative, for the Respondent

CORAM:

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

FINAL ORDER NO. 76023 / 2025

DATE OF HEARING / DECISION: 24.04.2025

ORDER: [PER SHRI ASHOK JINDAL]

The appellant is in appeal against the impugned order.

2. The facts of the case are that the appellant is a manufacture of "Rice Par Boiling Machinery and the associated dryer unit". The same used to be classified under CETH 8437 attracting 'nil' rate of duty in terms of C.B.E.C. Circular No. 924/14/2010-CX dated 19.05.2010. The above classification of the said product continued until the classification of the impugned goods were changed to CETH 8419 vide C.B.E.C. Circular No. 982/06/2014-CX dated

15.05.2014, following which, a Show Cause Notice was issued to the appellant on 29.09.2014, proposing to demand central excise duty for the period from 01.07.2009 to 30.06.2014, along with interest and penalty, on the basis of the change of classification as above.

3. The said Show Cause Notice was adjudicated vide the impugned order, wherein, the Id. adjudicating authority, finding that there was no suppression of facts on the part of the appellant, set aside the demand for the extended period of limitation and confirmed the demand for the normal period to the tune of Rs.50,04,520/-, along with interest. No penalty was imposed on the appellant.

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

5. The Ld. Counsel appearing on behalf of the appellant submits that the issue involved in this case is no longer res integra in the light of the decision of this Tribunal in the case of *Commissioner of Central Excise, Panchkula v. Jyoti Sales Corporation & ors.* [Final Order No.A/60300-60309/2019 dated 19.02.2019 in Excise Appeal No. 01901 of 2011 & ors. – CESTAT, Chandigarh] wherein it has been held that prior to the issuance of C.B.E.C. Circular No. 982/06/2014-CX dated 15.05.2014, demands are not sustainable. In view of this, the appellant submits that in this case, the demand for the period prior to 15.05.2014 is not sustainable against them and therefore, the impugned order be modified to this extent.

6. On the other hand, the Ld. Authorized Representative of the Revenue supported the impugned order.

7. Heard the parties and considered their submissions.

8. We observe that the Tribunal at Chandigarh in the case of *Jyoti Sales Corporation (supra)* [Final Order No.A/60300-60309/2019 dated 19.02.2019 in Excise Appeal No. 01901 of 2011 & ors. – CESTAT, Chandigarh] has held that since prior to 15.05.2014 the C.B.E.C. Circular No. 924/14/2010-CX dated 19.05.2010 was in force and the classification of the said goods was changed from 15.05.2014 onwards, no demand is sustainable prior to 15.05.2014. In these circumstances, following the decision cited supra, we hold that the demand for the period from 01.07.2009 to 14.05.2014 is not sustainable.

8.1. The rest of the demand, for the period from 15.05.2014 to 30.06.2014 is confirmed and the same is payable by the appellant, along with interest.

9. No penalty is imposable on the appellant in the facts and circumstances of the case.

10. In these terms, the appeal is partly allowed.

(Operative part of the order was pronounced in open court)

Sd/-

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)