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

REGIONAL BENCH – COURT NO. 1

Excise Appeal No. 75242 of 2018

(Arising out of Order-in-Original No. 07/COMMR/CGST & CX/KOL/NORTH/2017-18 dated 26.09.2017 passed by the Commissioner of C.G.S.T. and Central Excise, Kolkata North, G.S.T. Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata – 700 107)

M/s. WPIL Limited **: Appellant**
22, Ferry Fund Road, Panihati,
Kolkata – 700 114

VERSUS

Commissioner of C.G.S.T. and Central Excise **: Respondent**
Kolkata North Commissionerate
G.S.T. Bhawan, 180, Shantipally, Rajdanga Main Road,
Kolkata – 700 107

APPEARANCE:

Shri N.K. Chowdhury, 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. 76144 / 2025

DATE OF HEARING / DECISION: 25.04.2025

ORDER: [PER SHRI K. ANPAZHAKAN]

M/s. WPIL Limited, 22, Ferry Fund Road, Panihati, Kolkata – 700 114(hereinafter referred to as the "appellant") are engaged in the manufacture of different types of Centrifugal Pumps and its spare parts, falling under Tariff Entries 84137094/93 and 84139120 respectively of the First Schedule to the Central Excise Tariff Act, 1985.

2. During the course of EA-2000 Audit, it was noticed by the Revenue that the appellant had cleared their excisable goods falling under the Tariff Entry 84137094 as 'Centrifugal Power Driven Pump V.T. /

H.T. for handling water', but had not discharged appropriate Service Tax thereon for the period from December, 2010 to October, 2015. It was also noticed that the appellant had availed concessional rate of duty, as applicable during the period under dispute, by availing the benefit under Notification Nos. 10/2006-C.E. dated 01.03.2006 (Sl. No. 17) and 12/2012-C.E. dated 17.03.2012 (Sl. No. 235), as amended. However, the benefit of Sl. No. 17 and Sl. No. 235 of the above said Notifications for payment of duty at concessional rates was available only for clearance of 'power driven pumps primarily designed for handling water'. The Revenue took the view that since the centrifugal pumps manufactured by the appellant are classifiable under 84137094, they are not primarily designed for handling water and it was alleged that the benefit of concessional rate of duty provided under the said Notifications is not available to the appellant.

2.1. Accordingly, a Show Cause cum Demand Notice dated 22.10.2015 was issued proposing to demand central excise duty amounting to Rs.4,98,55,999/- (inclusive of cesses), along with interest and penalty, by denying the benefit of the said Notifications viz. Notification No. 10/2006-C.E. dated 01.03.2006 (Sl. No. 17) and Notification No. 12/2012-C.E. dated 17.03.2012 (Sl. No. 235), as amended.

2.2. During adjudication, the Ld. Commissioner of C.G.S.T. and Central Excise, Kolkata North Commissionerate, Kolkata confirmed the demand of Rs.1,15,89,687/-, along with applicable interest, and dropped the demand of Rs.3,82,66,312/-. A penalty of Rs.57,94,844/- was imposed under Section 11AC of the Central Excise Act, 1944.

3. Aggrieved by the confirmation of the said demands, the appellant has filed the present appeal.

4. During the course of hearing, it has been submitted by the appellant that before the introduction of the 8-Digit Code in the year 2006, they were classifying the goods viz. Centrifugal Power Driven Pumps of Vertical Type and its spares, mainly used for handling water, under the Tariff Item No. 8413.11; after introduction of the 8-Digit Code, they started describing the goods under the Tariff Item No. 84137094, since the goods manufactured by them were of 'Vertical Type' and the same were specifically mentioned in Tariff Entry 84137094 of the Central Excise Tariff Act, 1985. The appellant have submitted that they are eligible for availing the benefit of Notification No. 10/2006-C.E. dated 01.03.2006 (Sl. No. 17) and Notification No. 12/2012-C.E. dated 17.03.2012 (Sl. No. 235), as amended and thus, have availed concessional rate of duty and paid duty accordingly; this information had been disclosed in the ER-1 Returns filed by them.

4.1. It has been further submitted by the appellant that Sl. No. 235 of Notification No. 12/2012-C.E. dated 17.03.2012 covers all 'power driven pumps primarily designed for handling water'; the said Notification covers Centrifugal Pumps both horizontal and vertical. In view of this, the appellant contends that the Centrifugal Pumps manufactured by them, falling under Tariff Heading 8413, are eligible for the benefit provided under the said Notification(s).

4.2. In view of these submissions, the appellant submits that the demand confirmed in the impugned order is not sustainable and accordingly, prays for setting aside the demands confirmed, along with interest and penalty.

5. On the other hand, the Ld. Authorized Representative of the Revenue states that the goods manufactured by the appellant are classifiable under the Tariff Entry 84137094; the said Tariff Entry covers "Vertical turbine driven pumps". He submits that the benefit of concessional rate of duty provided under Notification No. 10/2006-C.E. dated 01.03.2006 (Sl. No. 17) and Notification No. 12/2012-C.E. dated 17.03.2012 (Sl. No. 235), as amended is available only to pumps primarily designed to handle water, which are inter alia classifiable under Tariff Entry 84137010. Thus, he argued that the benefit of the aforesaid Notifications is not available to the goods falling under Tariff Entry 84137094.

5.1. In view of these submissions, the Ld. Authorized Representative of the Revenue contends that the demand has been rightly confirmed in the impugned order.

6. Heard both sides and perused the appeal records.

7. We observe that the issue involved in the case is whether the goods in question, namely, "Centrifugal Power Driven Pumps Vertical Type / Horizontal Type for handling water", manufactured by the appellant are eligible for the benefit provided under Notification No. 10/2006-C.E. dated 01.03.2006 (Sl. No. 17) and Notification No. 12/2012-C.E. dated 17.03.2012 (Sl. No. 235), as amended, or not.

7.1. The contention of the Revenue is that the said goods are classifiable under Tariff Item No. 84137094 for which the above Notifications are not applicable; the Revenue argues that 'pumps primarily designed to handle water' inter alia falling under Tariff Item No. 84137010 shall only be covered by the Notifications in question. The relevant Tariff Headings and Tariff Entries under the Central Excise Tariff Act, 1985 are reproduced below: -

8413	**Pumps for liquids, whether or not fitted with a measuring device; liquid elevators**		
	- *Pumps fitted or designed to be fitted with a measuring device:*		
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.			
.			
8413 70 10	--- Primarily designed to handle water	u	12%
	--- *Other:*		
8413 70 91	---- Single and multistage chemical process pumps	u	12%
8413 70 92	---- Horizontal split casing pumps	u	12%
8413 70 93	---- Horizontal self priming pumps	u	12%
8413 70 94	---- Vertical turbine driven pumps	u	12%
8413 70 95	---- Boiler feed pumps	u	12%

7.2. We observe that the appellant has claimed exemption under Sl. No. 235 of Notification No. 12/2012-C.E. dated 17.03.2012. The relevant entry of the said Notification reads as under: -

235	8413	Power driven pumps primarily designed for handling water, namely, centrifugal pumps (horizontal and vertical), deep tube-well turbine pumps, submersible pumps, axial flow and mixed flow vertical pumps	6%	-

8. From the above, it is seen that "centrifugal pumps (horizontal and vertical)"are eligible for concessional rate of duty in terms Sl. No. 235 of the aforesaid Notification No. 12/2012-C.E. In the present case, the goods manufactured by the appellant fall under the Central Excise Tariff Heading No. 8413. Thus, we find that Sl. No. 235 of Notification No. 12/2012-C.E. reproduced supra, covers the goods manufactured by the appellant.

9. We also take note of the submission made by the appellant that the goods designed by them are 'primarily designed for handling water' and even if their classification is determined to be under Tariff Item 84137010, the goods are still eligible for the benefit of concessional rate of duty under the said Notification as both the headings fall under the Central Excise Tariff Sub-heading 8413. Therefore, it has been stated that since the Centrifugal pumps (horizontal and vertical) manufactured by the appellant are primarily designed for handling water, the same are covered by Notification No. 12/2012-C.E.

9.1. It is observed that prior to the introduction of the 8-Digit Code in the Tariff, the appellant had been classifying the impugned goods under the Tariff Item No. 8413.11. Thereafter, the appellant has classified the said goods under Tariff Item No. 84137094 since Centrifugal Pumps of "Vertical Type" were been specifically mentioned therein. In any case, it is not disputed that the Centrifugal Pumps manufactured by the appellant are used primarily for handling water and hence, classification could also be made under the Tariff Entry 84137010. But in either case, whether the classification is under 84137010 or 84137094, the benefit provided under the said Notification shall be available to the goods manufactured by the appellant as both these entries are falling under the Tariff Heading 8413.

10. In view of the above, we find that the goods manufactured by the appellant, namely, "Centrifugal Power Driven Pumps (Horizontal and Vertical) used primarily for handling water" are eligible for the benefit of concessional rate of duty as prescribed under Notification No. 10/2006-C.E. dated 01.03.2006 (Sl. No. 17) and Notification No. 12/2012-C.E. dated 17.03.2012 (Sl. No. 235), as amended, as has been availed by the appellant. Consequently, we hold that the demand of central excise duty confirmed in the impugned order is not sustainable.

11. Since the demand of duty itself has been held as unsustainable, the question of demanding interest or imposing penalties does not arise.

12. In the result, we set aside the impugned order and allow the appeal, with consequential relief, if any, as per law.

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

Sd/-
(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/-
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd