

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH – COURT NO. 1
Customs Appeal No. 77184 of 2019**

(Arising out of Order-in-Appeal No.KOL-CUS(PORT)/AA/449/2019 dated 01.07.2019
passed by Commissioner of Customs(Port), Kolkata)

Commissioner of Customs (Port), : **Appellant**
Custom House, 15/1, Strand Road, Kolkata-700 001.

VERSUS

M/s. Carbon Resources Pvt. Ltd. : **Respondent**
Narayani Niwas, New Barganda, Giridih-815301.

APPEARANCE:

Shri T.Sulaiman, Authorized Representative for the Appellant

Ms. Taniya Roy, Advocate for the Respondent

CORAM:

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

FINAL ORDER NO. 76442/ 2025

DATE OF HEARING :02.06.2025

Order : [Per Shri Ashok Jindal]

The present appeal is filed against Order-in-Appeal No. KOL-CUS(PORT)/AA/449/2019 dated 01.07.2019.

2. Brief facts of the case are that the respondent has imported Electrical/Gas Calcinations as well as Gas Calcined Anthracite Coal (CGA and ECA) through the EDI Systems. The respondent has claimed that the same is to be classified under CTH 2701 1100 but the Department has classified the same under CTH 3824 90 90. However, in the appeal order the plea of the respondent was accepted.

3. Being aggrieved, the present appeal has been filed by the Department.

4. After hearing both the parties and on perusal of the case record, it appears that the respondent has imported gas calcined anthracite coal and electrically calcined anthracite coal and claimed classification under CTH 2701 11 00 attracting BCD @7.5% and CVD @ 12% is levied. The respondent thereafter, filed an appeal before the Commissioner of Customs (Appeal) wherein it has been held vide Order-in-Appeal No. F. Nos. S5-903, 1077-1080/CUS (APPG) KOL (PORT)/2016 that electrically calcines anthracite coal and gas calcined anthracite coal are classifiable under CTH 2701 11 00 and does not merit classification under TI 3824 90 90 of the Customs Tariff Act, 1975. The Commissioner of Customs (Port) has preferred an appeal before the Hon'ble CESTAT, Kolkata against the Order passed by the Commissioner of Customs (Appeals).

5. It has been contended by the Department in their appeal that calcined coal is not anthracite coal in natural form but that has been subjected to the process of electrical/ gas calcinations and that the calcined anthracite coal is not a fuel but a carbon additive.

6. Further, the coal has undergone the process of calcinations does not alter the nature of the product as anthracite coal. The process of calcinations itself is a common treatment process applied to many solid materials. It is commonly used in Metallurgy to concentrate ore and remove hydrates and carbonates as per the ratio laid down in the case of 20 Microns Ltd. v. CCE -2006 (199)E.L.T. 41 (Tri-Mumbai).

7. From the record, it also appears that calcine is the natural form and the same was applied in the

instant case. When it is so, then we find no reason to interfere with the impugned order and the same is sustained. Appeal filed by the revenue is dismissed.

(Dictated and pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)