

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

REGIONAL BENCH – COURT NO.1

Excise Appeal No.76253 of 2017

(Arising out of Order-in-Original No.09/Commissioner/CE/Kol-IV/2017/2119T dated 05.04.2017 passed by Commissioner of CGST & Central Excise, Kolkata)

M/s Dulichand Technico

(Om Complex, Monber, PO-Mrigala, PS-Dankuni, Dist.-Hooghly, Pin-712331)

Appellant

VERSUS

Commissioner of CGST & Central Excise, Kolkata

(180, Shantipally, Rajdanga Main Road, Kolkata-700107)

Respondent

APPEARANCE :

Shri J.P.Khaitan, Sr.Advocate & S/Shri Saurabh Bagaria & Indranil Banerjee and Ms.Samrita Das, all Advocates for the Appellant
Shri D.Sue, Authorized Representative for the Respondent

CORAM:

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

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

FINAL ORDER NO.77059/2025

DATE OF HEARING : 23 JULY 2025

DATE OF DECISION : 23 JULY 2025

Per Ashok Jindal :

The appellant is in appeal against the impugned order.

2. The facts of the case are that the appellant is a manufacturer of paddy parboiling unit and dryer unit for rice mills and clearing the same classifying under Chapter 8437 of the Central Excise Tariff Act, 1985.

2.1 The Revenue is of the view that the said machineries are classified under Chapter 8419 of the Central Excise Tariff Act, 1985.

2.2 Therefore, proceedings were initiated for the appellant vide issuance of show-cause notice dated 24th April, 2015 for the period May, 2010 to 14th May, 2014.

2.3 The matter was adjudicated. The goods in question held to be classified under Central Excise Tariff Heading 8419 demanding duty from the appellant.

2.4 Aggrieved from the said order, the appellant is before us.

3. Today, when the matter was called for hearing, the Id.Sr.Advocate for the appellant submits that that the issue involved in this matter is covered by the decision of this Tribunal in the case of Jyoti Sales Corporation Vs. Commissioner of Central Excise & Service Tax, Panchkula reported in 2020 (374) ELT 936 (Tri.-Chandigarh) wherein it has been held that prior to 15.05.2014, the goods are to be classified under Chapter 8437 of the Central Excise Tariff Act, 1985 in terms of CBEC Circular No.924/14/2010 dated 19.05.2010. Therefore, the issue is no more *res integra* . In view of this, the impugned order is to be set aside.

4. The Id.A.R. for the Revenue has justified the impugned order.

5. Heard both the parties and considered the submissions.

6. We find that the issue of classification has been examined by this Tribunal and this Tribunal held that for the period prior to 15.05.2014, if the appellants have classified the products in question under Chapter 8437 of the Central Excise Tariff Heading, 1985, no demand is sustainable in terms of CBEC Circular No.924/14/2010 dated 19.05.2010. Therefore, following the such decision, we hold that the appellant has correctly classified the goods under Chapter 8437 of the Central Excise Tariff Heading, 1985. Consequently, no demand is sustainable against the appellant.

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7. In view of this, we set aside the impugned order and allow the appellant with consequential relief, if any.

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

(Ashok Jindal)
Member (Judicial)

mm

(K.Anpazhakan)
Member (Technical)