IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA
REGIONAL BENCH – COURT NO.1

Excise Appeal No.75725 of 2017

(Arising out of Order-in-Original No.DGR-EXCUS-000-COM-021-16-17 dated 24.01.2017 passed by Commissioner of CGST & Central Excise, Durgapur

M/s Steel Authority of India Limited
(Durgapur Steel Plant, Durgapur-713203, West Bengal)

Appellant

VERSUS

Commissioner of CGST & Central Excise, Durgapur
(Satyajit Roy Sarani, City Centre, Dist.-Burdwan, Durgapur-713216)

Respondent

APPERANCE :
Shri Abhijit Biswas, Advocate for the Appellant
Shri P.Das, Authorized Representative for the Respondent

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

FINAL ORDER NO.75366/2026

DATE OF HEARING : 11 MARCH 2026
DATE OF DECISION : 11 MARCH 2026

Per Ashok Jindal :

The appellant is in appeal against the impugned order.

2. The facts of the case are that the appellant has integrated steel plants situated at different places in the country, wherein it undertakes manufacture of various iron, steel and allied products falling under Chapters 72, 73, 74 and 86 of the Central Excise Tariff Act, 1985. One such integrated steel plant of the appellant is situated at Durgapur in the State of West Bengal and is known as "Durgapur Steel Plant". The present appeal relates to the said Durgapur Steel Plant ("DSP") of the appellant.

2.1 For the purpose of carrying out manufacturing activity at its integrated steel plant at Durgapur, DSP is duly registered both under the Central Excise Act, 1944 read with the Central Excise Rules, 2002 and the Finance Act, 1994 (relating to service tax) read with the Service Tax Rules, 1994 respectively.

2.2 From the relevant materials on record, it would be seen that one of the products which manufactured in the said factory is commonly known as "Burnt Lime", which comes into existence on processing of limestone. This product is being regularly manufactured and cleared from the said factory since the year prior to 1986. DSP regularly files its returns under the Act. Manufacture and clearance as well as classification of the said goods were/are duly declared. During the said period and thereafter, until the time hereinafter stated, it is also an undisputed fact, evident from the relevant records that the Department, obviously after verification of all documents and legal provisions, came to the conclusion and consistently held that burnt lime manufactured by DSP is classifiable under Chapter Heading 25 of the Central Excise Tariff and is subject to nil rate of duty.

2.3 In the premises DSP was surprised to receive a show cause notice dated August 8, 2012 issued by the then jurisdictional Commissioner of Central Excise & Service Tax, Bolpur wherein it was wrongfully and illegally alleged that DSP by willfully suppressing of the material facts with intent to evade payment of central excise duty had contravened the provisions of the said Rules specified in the show cause notice by classifying burnt lime under Chapter Heading 25 of the Central Excise Tariff but allegedly it was correctly classifiable under Chapter Sub-Heading 28259090 of the Central Excise Tariff and dutiable as such. As per the said show cause notice, the appellant had accordingly not paid central excise duty allegedly payable on burnt lime, amounting to a total of Rs.2,74,59,934/- (including education cess and secondary & higher education cess), cleared from the said factory during the period July 2007 to May 2012. The show cause notice on the said allegation proposed recovery of the said sum of money, along with interest thereon, under Section 11A (1)/11A (4) and Section 11AB/11AA of the Act respectively. The show cause notice further proposed imposition of penalty upon DSP under the provisions of Rule 25 of the said Rules read with Section 11AC of the Act.

2.4 The aforesaid show cause notice was thereafter followed by 4 (four) periodical show cause notices dated June 21, 2013, May 21, 2014, May 5, 2015 and March 30, 2016, covering the periods June 2012 to April 2013, May 2013 to March 2014, April 2014 to February 2015 and March 2015 to December 2015 respectively wherein, on the selfsame allegations, inter alia, demand of alleged not paid central excise duty amounting to Rs.74,22,471/-, Rs.50,80,809/-, Rs.49,00,880/- and Rs.46,17,153/- respectively were made.

2.5 By a letter dated December 27, 2016, DSP filed a common reply to all the five show cause notices, in view of the allegations contained therein being verbatim the same, except for the periods involved and the amounts of duty demanded. In the said reply DSP along with documentary evidence, demonstrated the patent untenability and illegality of the five show cause notices and the misconceived contentions contained therein. It was conclusively established that contrary to what has been alleged in the said show cause notices no central excise duty was legally payable on the said burnt lime manufactured and cleared by DSP during the period July 2007 to

December 2015 and, consequently, the purported duty demands made in the said show cause notices were misconceived, contrary to law, untenable and unsustainable. The Commissioner of Customs, Central Excise & Service Tax, Durgapur Commissionerate, Durgapur, in the premises, requested to drop the proceedings initiated thereunder against DSP.

2.6 Thereafter a personal hearing was granted to DSP by the Commissioner on December 27, 2016 at which DSP's representatives duly appeared and made submissions, whereby the Commissioner purporting to classify burnt lime under Chapter Sub-heading 28259090 of the Central Excise Tariff, confirmed the wrongful and illegal demand of central excise duty on the said goods manufactured and cleared during the said period, amounting to a total of Rs.4,94,81,247/- under Section 11A(10) of the Act, along with interest thereon under Section 11AA of the Act against DSP. The Commissioner also purported to impose a penalty of Rs.4,94,81,247/- upon DSP under Section 11AC of the Act.

2.7 Being aggrieved by the said order of the Commissioner, the appellant is before us.

3. The ld.Counsel appearing on behalf of the appellant submits that the order has been passed by the Commissioner on an incorrect appreciation and/or interpretation of the relevant tariff headings/sub-headings of the Central Excise Tariff. On a correct and proper appreciation and/or interpretation of the relevant tariff provisions of the Central Excise Tariff it is clearly evident that burnt lime is correctly classifiable under Chapter Heading 25 of the Central Excise Tariff and

thus liable to nil rate of duty and not under Chapter 28 thereof, including sub-heading 28259090, as wrongly classified by the Commissioner in the said order.

3.1 He submits that from both the said show cause notices and the said order, it would be seen that as per the respective test reports relied upon in the adjudication proceedings the percentage of calcium oxide in the burnt lime manufactured by DSP is of 85.9% purity. The HSN Explanatory Note, under Tariff Heading 28.25, specifically excludes calcium oxide which has a purity less than 98% from Chapter 28. The relevant Chapter Note (11), under Chapter Heading 28.25 of HSN (5^{th} ed; 2012, page VI-2825-4), is as follows:

"(11) Calcium oxide, hydroxide and peroxide. This heading covers only the oxide (CaO) and the hydroxide (Ca (OH2), in the pure state (i.e. containing practically no clay, iron oxide, manganese oxide, etc.), such as the product obtained by calcining precipitated calcium carbonate.

The heading also covers fused lime obtained by fusing ordinary quicklime in an electric furnace. This product has a high degree of purity (approximately 98% calcium oxide); it is crystalline and generally colourless. It is used, in particular, for refractory linings for furnaces, in the manufacture of crucibles and for addition to concrete, in small pieces, to increase its resistance to wear.

Calcium peroxide (CaO2) is a white or yellowish powder, hydrated (usually with 8H2O), sparingly soluble in water. Used as a bactericide and as a detergent, in medicine and in the preparation of cosmetics.

Quicklime (calcium oxide) and slaked lime (calcium hydroxide) are excluded (heading 25.22).

(Emphasis provided)

As per principles settled by the Apex Court that HSN Explanatory Note is to be used as a guide to resolve dispute relating to tariff classification.

3.2 He further submits that the Central Board of Excise & Customs by its Circular No. 112/6/91-CX3 (Circular No.18/91-CX3) dated July 10, 1991 has in clear terms directed that burnt lime is appropriately classifiable under Chapter Heading No. 2505 of the Central Excise Tariff. It is also a settled principles of law that such circulars issued by the Board in exercise of powers conferred upon it under Section 37B of the Act is binding on the Department unless contrary decisions of the Courts contrary thereto (which is absent herein). The issue also stands settled in favour of classification of burnt lime under Chapter Heading 25 of the Central Excise Tariff and not under Chapter 28 thereof by decision of the Tribunal. Wrongfully and illegally, however, the Commissioner in passing the said order in purporting to classify burnt lime under Chapter 28 (sub-heading 28259090) of the Central Excise Tariff has ignored the said binding provisions of the Board's circular and the decision of the Tribunal. This has also vitiated the said order and has rendered the same illegal, invalid and bad.

3.3 It is submitted that the Burnt lime containing calcium oxide of purity 85.9%, which is far less than the required percentage of more than 98%, therefore cannot be classified under Chapter 28 of the Central Excise Tariff and is, on the contrary, correctly classifiable under

Chapter 25 thereof and hence not liable to any central excise duty under the Central Excise Tariff. To support his contentions, he relies on the following decisions –

(i) 2015 (324) E.L.T. 395 (Tri. Bang) (Commissioner of C. Ex., Hyderabad-III Versus Bhadradri Mineral Pvt. Ltd.

(ii) 2025 (7) TMI 648 – Cestat Kolkata (M/s. ITC Ltd. Versus Principal Commissioner of Customs (Port), Kolkata.

(iii) 2025 (8) TMI 1662– Cestat Kolkata (M/s. ITC Ltd. Versus Principal Commissioner of Customs (Port), Kolkata.

(iv) (2024) 17 Centax 292 (Tri. Bom) (Viraj Profiles Ltd. Versus Commissioner of Customs (Preventive), Mumbai.

(v) (2024) 17 Centax 293 (S.C.) (Commissioner of Customs (Preventive), Mumbai. Versus Viraj Profiles Ltd.)

(vi) 2025 (12) TMI 522 – CESTAT Kolkata (M/s. Steel Authority of India Limited Versus Commissioner of Customs (Preventive), Kolkata.

(vii) 1995 (75) E.L.T. 561 (Tribunal) (Birla Jute & Industries Ltd. Versus Collector of Central Excise, Raipur)

3.4 He further submits that in the premises the demand of central excise duty of Rs.4,94,81,247/- confirmed by the said order is illegal, invalid, untenable and unsustainable. In the facts and circumstances aforesaid, there being no misclassification or wrong classification of the burnt lime by DSP, Section 11A of the Act has or can have no manner of application whatsoever. He submits that without prejudice to the aforesaid and fully relying on the same, further and in any event, the show cause notice dated August 8, 2012 and the purported demand made thereunder and confirmed by the said order for the period July

2007 to July 2011 is, even otherwise, illegal, invalid and unsustainable, in as much as the said show cause notice has been issued beyond the prescribed period of one year contained in Section 11A(1) of the Act. Contrary to the erroneous finding in the said order, neither the Proviso to Section 11A (1) nor the amended Section 11A (4) of the Act has or can have any application whatsoever in the facts and circumstances of the instant case as evident from the materials on record, which have been wrongly and illegal failed from being considered by the Commissioner in the said order.

3.5 From the documents on record enclosed with the reply to the show cause notice filed by DSP, being copies of show cause notices, adjudication and appellate orders of the concerned authorities under the Act, including the jurisdictional Central Excise authorities, it would be seen that there is or can be no manner of doubt or dispute whatsoever that at all material point of time, long prior to the said period, the fact that burnt lime was being classified under Tariff Heading 25 of the Central Excise Tariff and manufactured and cleared on such basis by DSP from its factory is not only a fact known to both parties but has been the case of the Department itself on and from since 1986 until the issuance of the show cause notice in the year 2012. In such circumstances, as per settled principles of law, there can be no allegation, let alone finding, that there has been willful suppression of material facts by DSP with intent to evade payment of duty under the Act and thus contravening the provisions of the said Rules, including those specified in the show cause notices. Hence the condition precedent for invoking the extended period of limitation for issuance of the show cause notice under Section 11A of the Act is not satisfied. In the premises the show cause notice dated August 8, 2012 issued in respect of burnt lime manufactured and cleared from the said factory of DSP during the period July 2007 to July 2011 is barred by limitation in so far as the same pertains to the demand of the period July 2007 to July 2011. The duty demand confirmed by the said order for this period is thus, even otherwise, illegal, invalid and bad as barred by limitation.

3.6 Further, it is submitted that the issue relates to dispute as regards classification of burnt lime for the purpose of assessment and hence interpretation of statutory provisions. Hence, in the light of the various decisions and statutory provisions and circulars of the Board on the issue, there can be, in any event, no allegation of willful suppression of material fact or contravention of the Act or the said Rules with intent to evade payment of duty by an assessee. As such, on this ground also, there can be no invocation of the extended period of limitation under Section 11A of the Act in the instant case.

3.7 He further submits that in the premises the demand of central excise duty of Rs.4,94,81,247/- confirmed by the said order is illegal, invalid, untenable and unsustainable. In the facts and circumstances aforesaid, there being no misclassification or wrong classification of the burnt lime by DSP, Section 11A of the Act has or can have no manner of application whatsoever.

3.8 He submits that there being no sustainable demand of duty against DSP in the instant case, the purported demand of interest under Section 11AA of the Act by the said order is also illegal, untenable and unsustainable, the condition precedent for invoking this provision not being satisfied.

3.9 He further submits that there being no contravention by DSP of any provision of the Act for the reasons aforestated, there can be no imposition of penalty upon DSP and, hence, the penalty imposed by the said order under Section 11AC of the Act is contrary to law, untenable and unsustainable.

3.10 Further, he submits that there being no willful suppression of any material fact on the part of DSP or contravention of the provisions of the Act or the said Rules with intent to evade payment of duty for the reasons abovestated, even otherwise, the condition precedent for invoking Section 11AC of the Act has not been and cannot be said to have been satisfied. As such the imposition of penalty upon DSP under Section 11AC of the Act is, for this reason also, illegal, invalid and bad. He, therefore, he prays for allowing their appeal by setting aside the impugned order.

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

5. Heard both the parties and considered the submissions.

6. After hearing the parties, we find that the short issue involved in this matter is that whether the burnt lime manufactured by the appellant is liable to pay duty or not ?

7. It is also on record that the percentage of calcium oxide in the burnt lime is of 85.9% purity. The said issue where the calcium oxide is less than 98%, has been examined by this Tribunal in the case of M/s ITC Ltd. Vs. Principal Commissioner of Customs (Port), Kolkata reported

in 2025 (7) TMI 648-CESTAT Kolkata, wherein this Tribunal has observed as under :

> *"5. We find that a similar issue has been examined by this Tribunal in the case of M/s. JSW Steel Ltd. v. Commissioner of Customs, Cochin [2025 (5) TMI 455 - CESTAT, Bangalore] (Final Order No. 20529 of 2025 dated 28.04.2025 in Customs Appeal No. 21776 of 2016)wherein the Tribunal observed as under: -*
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> *"5. Heard both sides. The only issue to be decided is whether the product "Quick Lime" imported by the appellant falls under CTH 2522.10 or 2825.9090 of the Customs Tariff 1985. The classification by the Revenue is based on the Lab Test Results report which says that the sample is in the form of white lumps and powder; composed of mainly Calcium Oxide (Quick Lime) along with small amounts of compounds of Iron, Magnesium, Manganese, etc.; available CaO = 92.2% and based on the fact that the Chapter 25 includes mineral products in the crude state or washed, crushed, ground, powdered, or concentrated by floatation, magnetic separation or other mechanical or physical process and heat treatments like roasting, fusion or calcination are not allowed.*
>
> *6. Let's examine the relevant Chapter Headings and the reasoning given by the Commissioner (Appeals) in the impugned order. The period of dispute is from September 2015 to November 2015. During this period the relevant tariff headings were as follows:*
>
> *SECTION V-MINERAL PRODUCTS*
>
> *Chapter 25: Salt; sulphur; earths and stone; plastering materials, lime and cement*
>
> *Notes:*
>
> *1. Except where their context or Note 4 to this Chapter otherwise requires, the headings of this Chapter cover only products which are in the crude state or which have been washed (even with chemical substances eliminating the impurities without changing the structure of the product), crushed, ground, powdered, levigated, sifted, screened, concentrated by flotation, magnetic separation or other mechanical or physical processes (except crystallization), but not products that have been roasted, calcined, obtained by mixing or subjected to processing beyond that mentioned in each heading.*
>
> *2522 Quicklime, Slaked Lime and Hydraulic Lime, other than Calcium Oxide and Hydroxide of Heading 2825*
>
> *2522 10 00 - Quicklime*

2522 20 00 - Slaked lime

2522 30 00 - Hydraulic lime

The Commissioner (Appeals) rejected the classification of the product under CTH 2522 on the ground that it is calcined product which is excluded as per Note 1 reproduced above and classified the same under CTH 2825 as separately defined compound.

7. Now, let's see Chapter Heading 28, which is reproduced below:

Chapter 28: Inorganic chemicals, organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes.

Notes:

1. Except where the context otherwise requires, the headings of this Chapter apply only to:

(a) separate chemical elements and separate chemically defined compounds, whether or not containing impurities:

2825 90-Other:

2825 90 10 --- Tin oxide

2825 90 20 --- Cadmium oxide

2825 90 40 --- Calcium hydroxide

2825 90 50 --- Ammonium hydroxide

2825 90 90 --- Other

8. As per the HSN Notes, Chapter 2522 which includes "Quick Lime" is explained as:

> *Quicklime (an impure calcium oxide) is obtained by calcining limestone containing very little or no clay. It combines very rapidly with water, giving off considerable heat and producing slaked lime (calcium hydroxide) is usually employed for soil improvement or in the sugar industry.*
>
> *Hydraulic lime is obtained by low temperature calcinations of limestone containing sufficient clay (although usually less than 20%) to ensure that the product sets under water. Hydraulic lime differs from natural cement in that it still contains appreciable*

amounts of un combined quicklime, which may be slaked with water."

This heading excludes purified calcium oxide and calcium hydroxide heading 2825.

Similarly, the HSN notes at Chapter heading 2825 explains as follows:

(11) Calcium oxide, hydroxide and peroxide. This heading covers only the Oxide (CaO) and the hydroxide (Ca (OH)2), in the pure state (i.e., containing practically no clay, iron oxide, manganese oxide, etc.), such as the product obtained by calcining precipitated calcium carbonate.

The heading also covers fused lime obtained by fusing ordinary quicklime in an electric furnace. This product has a high degree of purity (approximately 98% calcium oxide); it is crystalline and generally colourless. It is used, in particular, for refractory linings for furnaces, in the manufacture of crucibles and for addition to concrete, in small pieces, to increase its resistance to wear. Calcium peroxide (Ca02) is a white or yellowish powder, hydrated (usually with 8 H2O), sparingly soluble in water. Used as a bactericide and as a detergent, in medicine and in the preparation of cosmetics.

Quicklime (calcium oxide) and slaked lime (calcium hydroxide) are excluded (heading 2522)

9. Based on the above Tariff Headings and the Explanation given in the HSN Notes, it is very clear that "Quick Lime" is classifiable under CTH 2522 unless the chemical analysis proves that it has purity of 98% calcium oxide. Admittedly, in the present case, the purity is only 92%. Moreover, there is a specific classification of the product "Quick Lime" under CTH 2522 1000 while the classification prompted by Revenue is 2825 9090 is only a 'Residuary Entry', and taking into consideration the Interpretative Rules of Classification, specific heading is to be preferred to the residuary entry unless it is established that the product is pure calcium oxide. The decision in the case of CCE, Hyderabad-III vs. Bhadradri Minerals Pvt Limited (supra) relied upon by the appellant has been brushed aside only on the ground that the product there was 80%, on the same analogy that the calcium oxide with purity less than 98% does not merit classification under CTH 2825.

10. This Tribunal in the case of M/s. Viraj Profiles Limited vs. Commissioner of Customs (Preventive), Mumbai: 2023 (10) TMI 1260 CESTAT Mumbai dated 20.10.2023 in an identical set of facts observed as:

14.2 From the test reports of samples of imported goods, which are relied upon documents in the adjudication proceedings, we find that the chemical test conducted by the Central Revenue Control Laboratory (CRCL), Jawaharlal Nehru Custom House, on the samples of imported goods and its report dated 18.04.2018 indicate that the description of the goods as 'white lumps of irregular shapes & sizes along with waste powder. It is mainly composed of calcium oxide (quick lime) along with traces of Iron & Silicious matter'. On the percentage of chemical composition, the report stated that available lime 93.8%. Further, one another such chemical testing of imported goods by CRCL in report dated 16.05.2018, indicate that the imported goods contain '92.27% of calcium oxide and 0.96% of magnesium oxide'. Further, the HSN explanatory notes in the second para of B(11) also specify that calcium oxide of high degree of purity i.e., app. 98% or more would alone gets covered under the scope of sub-heading 2825. As seen from the test reports, the content of calcium oxide or lime is much less than the requisite 98%. Thus, we are of the considered view that in terms of the HSN explanatory notes, both on account of presence of specified material making it not in pure state and the composition of calcium oxide not upto the requisite 98% making it not a product of high degree, would not enable the imported goods to be classified under sub-heading 2825.

....

18. We also find that on similar issue of classification of quick lime the Co-ordinate Bench of the Tribunal in the case Jindal Stainless (Hisar) Ltd. (supra) had decided the appropriate classification of quick lime under chapter 25. The relevant paragraphs in the said order is extracted below:

"4. We have gone through rival submissions. It is seen that the goods imported by the appellant have purity in the range 95-97% as stated in the SCN. Certificated produced by the appellant shows the range to be slightly below that.

4.1 The heading 2522 reads as following:

"25.22- Quicklime, slaked lime and hydraulic lime, other than calcium oxide and hydroxide of heading 28.25."

2522.10-Quicklime"

It is seen that it specifically covers Quicklime under sub heading 25 22.10. Chapter note 1 of chapter 25 prescribes as follows:

"Quicklime (an impure calcium oxide) is obtained by calcining limestone containing very little or no clay. It combines very rapidly with water, giving off considerable heat and producing

slaked lime (Calcium hydroxide) The heading excludes purified calcium oxide and calcium hydroxide (heading 28.25)."

The HSN also prescribes as follows:

"1. Except where their context..... otherwise requires...... but not products that have been roasted, calcined, obtained by mixing or subjected to processing beyond that mentioned in each heading."

4.2 It is seen that Revenue has relied on the decision of the Tribunal in the case of Nuchem Industries Pvt. Ltd. (supra) which was upheld by Hon'ble Apex Court. It is seen that the said decision has been given in the context of Central Excise duties. At the material time, Central Excise Tariff was not aligned to HSN. Learned Counsel for the appellant pointed out that the Central excise Tariff was align with HSN only with effect from 20.03.1990. He pointed out that this distinction has been specifically examined by Tribunal in the case of Bhadradri Minerals Pvt. Ltd. (supra) in para 5.1 and 5.2. In view of above, it is apparent that the said decision would render in different circumstances and, therefore, cannot be relied as binding precedent.

4.3 It is seen that the decision of Tribunal in the case of Bhadradari Minerals Pvt. Ltd. (supra) has been rendered in practically identical circumstances. The said decision relies on the HSN explanatory notes 11 under chapter heading 2825. The said chapter note provides as follows:

"5.3 HSN Explanatory Note under Tariff Heading 28.25 also excludes Calcium Oxide which has a purity less than 98% from Chapter 28 in view of the fact that what is covered under 28.25 is Calcium Oxide of purity 98%. The relevant Chapter Note is reproduced below:

"(11) Calcium Oxide, Hydroxide and Peroxide: This Heading covers only the oxide (CaO) and the hydroxide (CaOH), in the pure state (ie. containing practically no clay, iron oxide, manganese oxide, etc.) such as the product obtained by calcining precipitated calcium carbonate:

The Heading also covers fused lime obtained by fusing ordinary quicklime in an electric furnace. This product has a high degree of purity (approximately) 98% calcium oxide: it is crystalline and generally colourless. It is used, in particular, for refractory linings for furnaces, in the manufacture of crucibles and for addition to concrete, in small pieces, to increase in resistance to water.

Calcium peroxide (CaO) is a white or yellowish powder, hydrated (usually with 8 H2O) sparingly soluble in water. Used as a bactericide and as a detergent, in medicine and in the preparation of cosmetics.

Quicklime (calcium oxide) and slaked lime (calcium Hydroxide) are excluded (heading 25.22)"

In the instant case, it is not in dispute that what is imported has purity less than 98%. Therefore, the decision squarely applies to the facts of the case.

4.4 Revenue has relied on the Advance Ruling Authority given in the case of M/s Lhoist India Pvt. Ltd.(supra) wherein burnt lime having 94-96% CaO was held to be classifiable under chapter heading 2825. The facts in the said case were significantly different. The said decision has been passed without taking note of chapter note 11 to chapter 28. Moreover, in the said decision, Hon'ble Justice PV Reddy chairman of the authority has observed as follows:

"22. This is perhaps a rare case in which the applicant has come forward to pay duty for its product under Tariff Item 2825 90 90 instead of claiming duty relief available for quick lime. Apparently, the applicant being convinced of the correct classification, would like to avert the risk of availing the benefit the strength of decisions rendered in a different context and then facing a backlash at a later stage."

From the above it is apparent that the facts and circumstances were significantly different.

5. As a result of above observations, we find that the ratio of decisions of Tribunal in the case of M/s Bhadradri Minerals Pvt. Ltd. is applicable to the facts of the instant case. Therefore, the product is rightly classified under chapter 25. The appeal is consequently allowed."

19. In view of the foregoing detailed discussions, analysis and findings recorded in the above paragraphs, we conclude that the imported goods 'quicklime' would be appropriately classifiable under Customs Tariff Item 2522 10 00 and not as 'other' under the Customs Tariff Item 2825 90 90, as claimed by Revenue".

11. In the present case as discussed above, the chemical analysis clearly states that the purity is only 92% and accordingly, the product "Quick Lime" is rightly classifiable under CTH 2522 1000. Accordingly, the impugned order is set aside and appeal is allowed with consequential relief, if any, as per law.”

6. Admittedly, in the Bills of Entry filed, the purity of Calcium Oxide is less than 98%and therefore, the product in question i.e., Quicklime, is rightly classifiable under Customs Tariff Item No.25221000, following the decision in the case of M/s. JSW Steel Ltd. (supra).

7. In view of this, we do not find any merit in the impugned orders and accordingly, the same are set aside.

8. In the result, the appeals are allowed, with consequential relief, if any."

8. Admittedly, the purity of calcium oxide is less than 98% in burnt lime. Therefore, the said product is classifiable under Heading 2522000 and no duty is payable by the appellant.

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

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

(Ashok Jindal)
Member (Judicial)

(K.Anpazhakan)
Member (Technical)

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