CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 88005 of 2019

(Arising out of Order-in-Original No. 19/SA(18)ADG(Adj./DRI, MUMBAI/2019-20 dated 24.07.2019 passed by the Additional Director General (Adjudication), Mumbai)

M/s India Cements Ltd. **.... Appellant**
Coromandel Towers, 93, Santhome High Road,
Karpagam Avenue, Raja Annamalai Puram,
Chennai – 600 028

Versus

Commissioner of Customs (Adjn.), Mumbai **.... Respondent**
2nd Floor, Old Building, New Custom House,
Ballard Estate, Mumbai - 400001

Appearance:

Shri Akhilesh Kangsia a/w Ms. Madhura Khandekar, Advocates for the Appellant

Shri Deepak Sharma, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/86818/2024

Date of Hearing: 29.10.2024
Date of Decision: 29.10.2024

Per: S.K. Mohanty

Heard both sides and perused the case records.

2. Classification of imported goods i.e. Calcium Oxide (CaO) [High Grade Quick Lime) is the subject matter of present dispute. The appellants have filed the Bill of Entry, classifying the said goods under Customs Tariff Item (CTI) 2522 10 00. However, the said classification claimed by the appellants was disputed by the Department, on the ground that high purity of Calcium Oxide should

be classified under Chapter Heading 2825. The classification of the said product is ascertainable on the basis of purity of the calcium oxide. In the present case, the purity of such product was ranging between 91 to 92%, which cannot be considered as high purity goods.

3. We find that identical matter came up before the Tribunal in the case of *Viraj Profiles Limited Vs. Commissioner of Customs (Preventive), Mumbai – 2023 (10) TMI 1260 – CESTAT MUMBAI* and the Tribunal vide Final Order No. A/87057 – 87058/2023 dated 20.10.2023 has endorsed the classification made by the appellant under CTI 2522 10 10. Since the supplier of the goods is the same in the case of *Viraj Profiles Ltd. (supra)* as well as in the case of the present appellant, we are of the view that different interpretation cannot be placed to decide the appeal differently. The relevant paragraphs in the said order are extracted herein below: -

> *"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.*
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> *20. Therefore, we are of the considered view that the impugned order passed by the learned Commissioner (Appeals) dated 05.04.2021 cannot stand for judicial scrutiny by confirming the classification under the Customs Tariff Item 2825 90 90 in respect of the impugned goods and thus, the same is liable to be set aside. We are also of the considered view that the impugned order passed by the Commissioner of Customs (Preventive), Mumbai dated 30.10.2019 is liable to be set aside for limited extent and thus, is modified to the extent of reclassifying the impugned goods under Customs Tariff Item 2522 10 00 as detailed in paragraph 19 above and in setting aside the order to the extent of dropping of the adjudged demands of duty as well as the penalties imposed on the appellants."*

4. Further, we find that Civil Appeal filed by the Revenue against the order dated 20.10.2023 of the Tribunal was dismissed by the

Hon'ble Supreme Court, reported in *2024 (4) TMI 186 – SC*. Therefore, the issue of classification of Calcium Oxide (CaO) under CTI 2522 10 00 has attained finality.

5. In view of the fact that the issue arising out of the present dispute is no more open for any debate, in terms of the above referred judgement of the Hon'ble Supreme Court, we are of the view that the impugned order passed by the learned adjudicating authority cannot be sustained on merits. Therefore, the impugned order is set aside and the appeal is allowed in favour of the appellants.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha