CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Early Hearing Application No. 86920 of 2024
In
Customs Appeal No. 88168 of 2019

(Arising out of Order-in-Original No. 22/SA(22)ADG(AJ.)/DRI,MUMBAI/2019-20 dated 19.08.2019 passed by Additional Director General (Adjudication), D.R.I. Mumbai.)

Jindal Stainless Limited. **.... Appellant**
O P Jindal Marg, Hisar, Haryana-125 005.

Versus

Additional Director General, Mumbai ADJ **.... Respondent**
New Custom House, Ballard Estate,
Mumbai, Maharashtra-400 001.

APPEARANCE:

Shri Akhilesh Kangasia, Advocate for the Appellant

Shri Ram Kumar, 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/86372/2025

Date of Hearing: 24.02.2025
Date of Decision: 24.02.2025

Per: S.K. MOHANTY

Heard both sides and perused the case records.

2. The applicants-appellants have filed this Misc. application, praying for early hearing of the appeal. On going through the averments made in the said application, we are of the view that the prayer made therein can be considered for grant of early hearing of the appeal. Therefore, the Misc. application is allowed. Since the issue involved in this appeal lies in a narrow compass, with the consent of both sides, the same is taken up for hearing and disposal today.

3. Classification of imported 'Quicklime' is the subject matter of present dispute. The appellants had classified the said goods under

Tariff Item 2522 10 00 of the Customs Tariff Act, 1975 (CTA). However, the department had claimed the classification under Tariff Item 2825 90 90 of the CTA, and as a result, the impugned order dated 19.08.2019, was passed in confirming the differential duty amount on the appellants. The appellants have contended that Quicklime imported by them were obtained by calcination of limestone in kiln and that the purity level in the imported goods was ranging from 92.40% to 94.80%. In this context, they have referred to the purchase order and the certificate of quality issued by the overseas supplier. Further, they also referred to the impugned order at Paragraph 5.12, to submit that the adjudicating authority had accepted the purity of the imported goods, ranging between 92.40% to 94.80%. Thus, it was contended by the appellants that the imported goods merit classification under Heading 25.22 of the CTA, irrespective of Calcium Oxide or their further use, by virtue of Note 1 to Chapter 25. With regard to the classification of the imported goods claimed by the department under Heading 28.25 of the CTA, the appellants have contended that Calcium Oxide under the said heading is of very high purity and cannot be equated with the goods in question inasmuch as the imported Quicklime is neither 100% Calcium Oxide, nor their been any further purification obtained by calcination of limestone.

4. We find that the issue with regard to classification of 'Quicklime', having purity of Calcium Oxide of less than 98% under Heading 25.22 of the CTA, has already stands settled by this Bench of the Tribunal, in the case of Viraj Profiles Limited Vs. Commissioner of Customs (Preventive), Mumbai – 2023 (10) TMI 1260-CESTAT-MUMBAI. The relevant paragraphs records in the said order dated 20.10.2023 by the Tribunal are quoted hereinbelow:

> *"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.

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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.

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."

5. The Civil Appeal filed by the Commissioner of Customs (Preventive), Mumbai against the above order dated 20.10.2023 (supra) of the Tribunal was dismissed by the Hon'ble Supreme Court, reported in 2024 (388) E.L.T. 673 (S.C.). Further, we find that the classification of the subject goods has also been decided by the Co-ordinate Bench of the Tribunal, in the case of India Cement Ltd. Vs. Commissioner of Customs (Adjn.), Mumbai [Final Order No. A/86818/2024 dated 29.10.2024]; Jindal Stainless Ltd. Vs. Commissioner of Customs (Preventive), Bhubaneswar – 2024 (9) TMI

846-CESTAT KOLKATA; Jindal Stainless Ltd. Vs. Commissioner of Customs, Visakhapatnam-2024 (12) TMI 618 CESTAT HYDERABAD. Thus, the issue arising out of the present dispute regarding classification of the imported goods i.e., 'Quicklime' is no more *res integara*.

6. In view of the settled position of law as discussed above, we do not find any merits in the impugned order dated 19.08.2019, insofar as it has changed the classification of the imported goods from Tariff Item 2522 10 00 to Tariff Item 2825 90 90 and resultant confirmation of the adjudged demands. Therefore, the impugned order is set aside and the appeal is allowed in favour of the appellants.

(Operative portion of the order pronounced in the open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

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