

REGISTEREDSPEED POST

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE)

8th Floor, World Trade Centre, Centre – I, Cuffe Parade,
Mumbai-400 005

F. No. 373/95/DBK/13-RA/5971	Date of Issue	16.10.2020 09.2020
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ORDER NO 200/2020-CUS(SZ) / ASRA / MUMBAI/ DATED 15.09.2020
OF THE GOVERNMENT OF INDIA PASSED BY SMT. SEEMA ARORA ,
PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY
TO THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE
CUSTOMS, 1962.

Applicant: M/s Servall Engineering Works Ltd..
Karamadai Post.
Coimbatore – 641 104.

Respondent : The Commissioner of Customs, Trichy.

Subject : Revision Application filed, under Section 12DD of
the Customs Act, 1962 against the Order-in-
Appeal No.CMB-CEX-000-APP-206-13 dated
18.06.2003 passed by the Commissioner of
Customs (Appeals), Coimbatore.

ORDER

The Revision Application is filed by M/s Servall Engineering Works Ltd., Karamadai Post, Coimbatore – 641 104 (hereinafter referred to as 'the applicant') against the Order in Appeal No. CMB-CEX-000-APP-206-13 dated 18.06.2003 passed by the Commissioner of Customs (Appeals), Coimbatore, in respect of Order in Original No.01/2012 dated 20.11.2012 passed by the Assistant Commissioner of Customs, ICD, Thudiyalur, Coimbatore.

2. Brief facts of the case are that the applicant manufacturer of Paper Mill Plant Machinery. The applicant are exporting the product which is described in their export invoice as "Machinery for making pulp of fibrous cellulosic material or for making or finishing paper or paper board parts as under – Complete Dryer Section'. The said product is classified under the Customs Tariff under heading no. 84399900. The applicant are claiming drawback under the Customs Act for the products exported by them under heading no. 848701 of the drawback schedule. On perusal of export invoices, the Original Authority found that the drawback claim does not match with the product description as given in the Invoice. The applicant claimed the drawback under heading no. 848701 attracting 3% drawback. The product is described as parts of paper making machine. However, the invoice and the LC showed that the product exported are complete dryer section. The Adjudicating Authority vide impugned order ordered the classification of the product complete dryer system under heading 8419 of Drawback Schedule.

3. The Appellate Authority vide impugned Order in Appeal upheld the order in original. The Appellate Authority observed that :

3.1 the personal inspection carried out by the jurisdictional central excise officer did not reveal any requirement for amendment of the description of the product.

3.2 the appellant have accepted the description found in the invoice representing complete machinery and not parts of machinery, although, according to them, it was mistakenly mentioned.

3.3 it is seen from the Customs Tariff that a subheading specifically mentioning a product heading as 'Dryer for Wood, paper pulp, paper or

paper board' appropriate to impugned product is found against 84193200, in conformity with the General Rules for the interpretation of the Schedule to the Customs Tariff Act, 1975 and as arrived by the adjudicating authority. Consequently, the heading under Drawback Schedule for the product in the instant case would be under heading 8419 of Drawback Schedule.

4. Being aggrieved by the impugned Order in Appeal, the applicant filed the instant Revision Application on following grounds :-

4.1 they exported parts of paper making machines like sole plates, drying cylinders, turning rolls, winders, frames and pope drums. These items are identifiable machined iron casting, manufactured through the process of casting, predominantly made of iron. The appropriate Central Excise Custom Tariff heading is 84399900.

4.2 Under such circumstances, for the purpose of drawback, the instructions vide Notification No. 75/2011-Cus (NT) dated 28.10.2011 are to be followed.

4.3 Accordingly, they had rightly claimed the drawback under heading 848701.

4.4 Both the adjudicating authority and Commissioner (Appeals) have failed to appreciate the fact the exported items are only parts made out of casting process (as per the shipping bills) and its drawback classification is 848701 as per Notification No. 68/2011-Cus (NT) dated 22.09.2011 as amended by 75/2011-Cus (NT) dated 25.10.2011.

5. Personal Hearing was held on 11.12.2019. Shri R. Balagopal, Consultant attended the same on behalf of the applicant. No one attended the personal hearing on behalf of the department. As such, the instant Revision Applicant is taken up for decision on the basis of documents and submissions available on record.

6. The Government has carefully gone through the relevant case records, the impugned Order-in-Original, Order-in-Appeal and the submissions from both sides.

7. The Government finds that the core issue involved in the instant case is classification of the goods 'Machinery for making pup of fibrous cellostic material or for making or finishing paper of paper board parts as under - Complete Dryer Section" exported by the applicant. The applicant has classified the impugned product under Customs Tariff heading No. 84399900 and claimed the drawback under heading No. 848701. The Adjudicating Authority vide Order in Original No. 01/2012 dated 20.11.2012 found that the product is appropriately classifiable under heading no. 84193200 and thus exporter should claim the drawback under heading no. 8419. The appellate authority has also upheld the decision of the original authority in the case. The applicant have filed the instant revision application seeking the classification of the impugned product.

8. The Government finds that the applicant are manufacturer of 'Paper Mill Plant Machinery' and also export the same. It is found that the paper making process is essentially a very large dewatering operation where a diluted solution of pulp suspension with less than 0.5% fibre solid is used. The major sections of a paper machine consist of:

A) Forming Section :- In the Forming section, the fibres present in the diluted pulp and water slurry form paper web through drainage by gravity and applied suction below the forming fabric.

B) Press Section :- In the Press section additional water is removed by mechanical pressure applied through the nips of a series of presses or rotating rolls and the wet web is consolidated in this section.

C) Dryer Section :- Further, most of the remaining water is evaporated and inter-fibre binding developed as the paper contacts a series of steam heated cylinder in the dryer section. Water removal from the wet web to the required moisture level is a critical step of papermaking. Majority of the functional properties of paper are developed in this section.

Further, it is gathered that the processed pulp is laid out on conveyor screen which passes through Dryer Cylinders in the Dryer System where heat is built up with the aid of steam and the paper is thus dried from which it later passed to the finishing stage. Thus, the Dryer Cylinder is the core part of the

Dryer Section as seen from the functions of this section. Hence, the Government in compliance with the interpretation of Rules 2(a) of the Customs Tariff Act, 1975 as elaborately discussed by the original authority in impugned order in original, opines that the Durer Cylinder meets with the requirement for its identification as a complete machinery having independent function. Whereas the articles such as motors, ducting, compressed air system, screen, hood etc. supplied along with it can be termed as parts of the dryer system.

9. The Government finds that the classification of any product should be determined in adherence to the guidelines under Rule 3(a) of the General Rules to the Schedule to the Customs Tariff Act, 1975. The Rule 3 states that

"3. When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods. "


9.2 The Government notes that the machinery for the treatment of wood, paper pulp, paper or paper, board etc. by process involving a change of temperature such as heating, evaporating, vaporising have been specifically incorporated under Customs Tariff Heading No. 84193200. The impugned product, being complete, independent machinery used for carrying out the process detailed under CSH 84193200, would thus be appropriately classified under said heading. As such, applicant's request in the instant revision application to classify the impugned product as part of machinery under Tariff Heading No. 84399900 does not merit consideration and hence not maintainable.

10. In view of above position, Government does not find any infirmity in the impugned order-in-appeal and therefore upholds the same.

11. The revision application is thus rejected being devoid of any merit.

12. So ordered.

13. So, ordered.


(SEEMA ARORA)
Principal Commissioner & Ex-Officio
Additional Secretary to Government of India.

ORDER No. 200/2020-CUS(SZ) /ASRA/

DATED 15.09.2020

To,
M/s Servall Engineering Works Ltd..
Karamadai Post.
Coimbatore - 641 104.

Copy to:

1. The Commissioner of Customs, Customs Preventive Commissionerate, Tiruchirapalli [Trichy] No.1, Williams Road, Cantonment, Tiruchirapalli - 620001.
2. The Commissioner (Appeals), Tiruchirapalli [Trichy] No.1, Williams Road, Cantonment, Tiruchirapalli -620 001.
3. The Assistant Commissioner of Customs, Preventive Unit, Coimbatore, Air Cargo Complex, No.-1441-A, Elgi Building, Trichy Road, Coimbatore- 641 018.
4. The Assistant Commissioner of Customs, Inland Container Depot, 2/235-C, Mettupalayam Road, Coimbatore- 641 034.
5. Sr. P.S. to AS (RA), Mumbai
6. Guard File.
7. Spare Copy.