

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NOS.60-61 OF 2003

M/S. ROCKWOOL (INDIA) PVT. LTD.

Appellant (s)

VERSUS

COMMISSIONER OF CUSTOMS & CENTRAL EXCISE, HYDERABAD
Respondent(s)

[With I.A.Nos.5-6 - Appln.(s) for withdrawal of civil appeals]

[With appln.(s) for stay and office report]

WITH

C.A.NO.543 OF 2003

[With I.A.No.3 - Appln. for withdrawal of civil appeal]

[With appln. for ex-parte stay and office report]; and

C.A.NO.223 OF 2003

[With appln.(s) for stay and office report].

Date: 07/05/2008 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE DALVEER BHANDARI

For Assessee (s) Mr. K.V. Balakrishnan, Adv. for
in CA 60-61/03 & Mr. K.V. Mohan, Adv.
CA 543/03

in CA 223/03

Mr. Alok Yadav, Adv. for

Mr. Tara Chandra Sharma, Adv.

For Revenue

Mr. K. Radhakrishnan, Sr. Adv.

Mr. S.D. Sharma, Adv. for

Mr. P. Parmeswaran, Adv.

UPON hearing counsel the Court made the following

ORDER

C.A.Nos.60-61/03 & 543/03

Applications for withdrawal of the civil appeals are allowed and
the civil appeals stand dismissed as withdrawn.

C.A.No.223/03

The appeal is allowed in terms of the signed order. No costs.

(Subhash Chander)

(Parveen Kr. Chawla)Court

(Kanwal Singh)

Court Master

Master

Court Master

[Two separate signed orders, viz., one in C.A.Nos.60-61/03 & 543/03 and the other
in C.A.No.223/03 are placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.60-61 OF 2003

M/s. Rockwool (India) Pvt. Ltd.

.....Appellant

Versus

Commissioner of Customs & Central Excise,
Hyderabad

.....Respondent

WITH

C.A.NO.543 OF 2003

ORDER

Counsel for the appellant has filed applications, viz., I.A.Nos.5-6 in C.A.Nos.60-61 of 2003 and I.A.No.3 in C.A.No.543 of 2003 seeking withdrawal of the civil appeals. These applications are allowed. Consequently, the civil appeals stand dismissed as withdrawn.

Sd/-
.....J.
[ASHOK BHAN]

Sd/-
.....J.
[DALVEER BHANDARI]

New Delhi.
May 07, 2008.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 223 OF 2003

N.G.P. Industries Ltd. ..Appellant

versus

Commissioner of Central Excise, Jamshedpur ..Respondent

ORDER

The point in dispute is regarding the correct classification of slagwool and rockwool manufactured by the appellant. According to the revenue, the goods manufactured by the appellant are classifiable under sub-heading 6803.00 of the Central Excise Tariff Act, 1985 (for short 'the tariff Act') whereas claim of the assessee is that the goods manufactured by it are classifiable under sub-heading 6807.10 of the tariff Act. The contending entries as were in existence at the relevant time read:

"68.03 - Slagwool/rockwool and similar mineral wools.

68.07 - Goods, in which more than 25% by weight of

redmud, pressmud or blast furnace slag or one or more of these materials, have been used' all other materials of stone, plaster, cement, asbestos, mica or of similar materials, not elsewhere specified or included."

Tribunal by its impugned order has decided the appeal in favour of the revenue on merits as well as on the question of limitation and held that the goods manufactured by the appellant will fall under sub-heading 6803.00. Hence, assessee is in appeal before us.

Counsel appearing for the appellant has brought to our notice that there was a conflict of opinion between different benches of the Tribunal regarding correct classification of the slagwool and rockwool and noticing the conflict between the different benches, the matter was referred to a larger Bench of the Tribunal in the case of Commissioner of Central Excise, Raipur v. Punj Star Insulation Fibre Co. which gave its decision in favour of the assessee holding that the goods manufactured by the appellant are classifiable under sub-heading 6807.10. The decision of the larger Bench is reported in 2004 (170) ELT 43 (Tri.-LB). Admittedly, revenue did not file any appeal against the decision of the larger Bench and the same has attained finality.

In view of this, we accept this appeal; set aside the impugned order of the Tribunal and it is held that the slagwool and rockwool manufactured by the appellant would be classifiable under sub-heading 6807.10. Since, we have decided the appeal on merits, we need not go into the question of limitation. No costs.

.....J.
[ASHOK BHAN]

NEW DELHI;
MAY 07, 2008

.....J.
[DALVEER BHANDARI]