

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1910 OF 2007

COMMISSIONER OF CENTRAL EXCISE-III,
AHMEDABAD

... Appellant

VERSUS

M/S GUJARAT AMBUJA EXPORT LTD.

... Respondent

O R D E R

The respondent herein is under 100% EoU scheme and is engaged in the manufacture of De-Oiled Cake (DoC) of soyabean, groundnut, mustard and other edible oil seeds which is covered under Section 58 and Section 65 of the Customs Act, 1962. As far as soyabean is concerned, it falls under Chapter Heading No. 2302.00 and by products Soyabean Solvent Extraction Raw Oil/Crude Oil was under Chapter Heading No. 1503.00 of the Schedule to the Central Excise Tariff Act, 1985.

The respondent has been availing the facilities of self-removal procedure and had cleared the by-product Soyabean Solvent Extraction Raw Oil in DTA by availing benefit of Notification No. 8/97 dated 01.03.1997 on the ground that there is no excise duty leviable on the said by-product and has cleared the aforesaid product at nil rate of duty. The Department, however, took the view that Notification No. 13/98 dated 02.06.1998 is applicable, as per which, the respondent was liable to pay duty at the

rate of 30 per cent as if this product was manufactured by 100% EoU. This resulted in issuance of as many as six show cause notices with the demand particulars whereof are as under: -

Show Cause Notice dated	Duty	Penalty	Order-in-Original
28.09.2001	Rs.45,13,508	Rs.10,000	01.10.2001
28.09.2001	Rs.48,47,214	Rs.10,000	01.10.2001
30.10.2001	Rs.40,87,996	Rs.10,000	13.11.2001
30.10.2001	Rs.62,60,871	Rs.10,000	13.11.2001
26.12.2001	Rs.7811	Rs.1000	13.01.2002
28.12.2001	Rs.96,95,865	Rs.20,000	13.01.2002
TOTAL	Rs.2,95,13,265		

The aforesaid demand was affirmed by passing Order-in-Original. Aggrieved by this order, the respondent filed appeal before the Commissioner. The Commissioner vide its Order-in-Appeal dated 26.09.1992 allowed the said appeal holding that by-products Soyabean Solvent Extraction Raw Oil was not covered under 100% EoU scheme and hence tariff rate applicable in DTA which was nil would be applicable to the by-product removed by the respondent. This finding has been upheld by the Customs, Excise and Service Tax Appellate Tribunal (hereinafter referred to as 'CESTAT') as well. It has affirmed the order of the Commissioner (Appeals) and dismissed the appeal of the Revenue challenging the order of the Commissioner (Appeals).

After going through the order of the CESTAT, we find that all the aspects of the issue regarding classification are discussed in detail arriving at the aforesaid findings. No question of law arises for consideration. The appeal is, accordingly, dismissed.

....., J.
[A.K. SIKRI]

....., J.
[ROHINTON FALI NARIMAN]

New Delhi;
October 07, 2015.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No. 1910/2007

COMMR.OF CENTRAL EXCISE-III, AHMEDABAD

Appellant(s)

VERSUS

M/S GUJARAT AMBUJA EXPORT LTD.

Respondent(s)

Date : 07/10/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Appellant(s)

Mr. K. Radhakrishnan, Sr. Adv.

Ms. Binu Tamta, Adv.

Mr. B. B. Singh, Adv.

Mr. Rajiv Singh, Adv.

Mr. B. Krishna Prasad, Adv.

For Respondent(s)

Mr. V. Sridharan, Sr. Adv.

Ms. L. Charnaya, Adv.

Mr. Hemant Bajaj, Adv.

Mr. Anandh K., Adv.

Mr. Aditya Bhattacharya, Adv.

Mr. T. D. Satish, Adv.

Mr. M. P. Devanath, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed order.

(Nidhi Ahuja)
COURT MASTER(Renu Diwan)
COURT MASTER

[Signed order is placed on the file.]