IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 1529 OF 2020

AJANTA LLP (FORMERLY KNOWN AS AJANTA LIMITED)
THR. ITS PURCHASE MANAGER **Appellant(s)**

VERSUS

COMMISSONER OF CUSTOMS, KANDLA **Respondent(s)**

O R D E R

1. Heard learned counsel appearing for the respective parties.

2. We are of the opinion that the Customs, Excise and Service Tax Appellate Tribunal has not committed any error in law or fact.

3. In this view of the matter, the Civil Appeal is dismissed.

4. Pending application(s), if any, shall stand disposed of.

……J.
[PAMIDIGHANTAM SRI NARASIMHA]

……J.
[SANDEEP MEHTA]

NEW DELHI;
SEPTEMBER 04, 2024

ITEM NO.8 COURT NO.14 SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 1529/2020

AJANTA LLP (FORMERLY KNOWN AS AJANTA LIMITED
THR. ITS PURCHASE MANAGER Appellant(s)

VERSUS

COMMISSONER OF CUSTOMS KANDLA Respondent(s)

Date : 04-09-2024 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Appellant(s) Ms. Charanya Lakshmikumaran, AOR
Ms. Apeksha Mehta, Adv.
Ms. Neha Choudhary, Adv.
Ms. Falguni Gupta, Adv.
Ms. Umang Motiyani, Adv.
Mr. Ayush Agarwal, Adv.

For Respondent(s) Mr. N. Venkatraman, A.S.G. (NP)
Mr. Mukesh Kumar Maroria, AOR
Mr. H.R. Rao, Adv.
Mrs. Diksha Rai, Adv.
Mr. Shyam Gopal, Adv.
Mr. Siddhant Kohli, Adv.
Mr. B.K. Satija, Adv.
Mr. Mukul Singh, Adv.
Mr. G.S. Makker Aor, Adv.

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

1. The Civil Appeal is dismissed in terms of the Signed Order.

2. Pending application(s), if any, shall stand disposed of.

(KAPIL TANDON) **(NIDHI WASON)**
COURT MASTER (SH) **COURT MASTER (NSH)**
(Signed Order is placed on the file)

Customs, Excise & Service Tax Appellate Tribunal,
West Zonal Bench : Ahmedabad

REGIONAL BENCH - COURT NO. 3

Customs Appeal No. 368 of 2010

[Arising out of Order-in-Original No OIO-KDL/COMMR/05/10-11 dated 30.06.2010 passed by Commissioner of Customs, Kandla]

Ajanta Limited **.... Appellant**
Orpat Industrial Estate, Rajkot
Morbi Highway, MORBI
GUJARAT-363641.

VERSUS

Commissioner of Customs, Kandla **.... Respondent**
Custom House,
Near Balaji Temple,
Kandala, Gujarat

AND

Customs Appeal No. 369 of 2010

[Arising out of Order-in-Original No OIO-KDL/COMMR/05/10-11 dated 30.06.2010 passed by Commissioner of Customs, Kandla]

Manoj Kumar **.... Appellant**
C/o Orpat Industrial Estate,
Rajkot Morbi Highway, MORBI
GUJARAT-363641.

VERSUS

Commissioner of Customs, Kandla **.... Respondent**
Custom House,
Near Balaji Temple,
Kandala, Gujarat

WITH

Customs Appeal No. 370 of 2010

[Arising out of Order-in-Original No OIO-KDL/COMMR/05/10-11 dated 30.06.2010 passed by Commissioner of Customs, Kandla]

Liladhar Pasoo Forwarders Pvt. Limited **.... Appellant**
Plot No. 4, Marshalling Yard, Sec-1,
KSEZ, Gandhidham,
KUTCH, GUJARAT-370230.

VERSUS

Commissioner of Customs, Kandla **.... Respondent**
Custom House,
Near Balaji Temple,
Kandala, Gujarat

APPEARANCE :

Shri Anand Nainawati, Advocate for the Appellant
Shri S.K. Shukla, Superintendent (AR) for the Respondent

CORAM: HON'BLE MR. RAMESH NAIR, MEMBER (JUDICIAL)
HON'BLE MR. RAJU, MEMBER (TECHNICAL)

FINAL ORDER NO. A/11783-11785 / 2019

DATE OF HEARING : 26.08.2019
DATE OF DECISION : 18.09.2019

RAJU :

These appeals have been filed M/s. Ajanta Limited against the confirmation of demand of duty, confiscation and imposition of redemption fine and penalties imposed on authorized representative of the appellant CHA.

2. Ld. Counsel for the appellant argued that they are manufacturers electric fans. They imported goods namely rotors, stator, down case, top case and down rod of motor and classified the same under tariff Chapter heading 8503 00 90 as parts of electric motor. The Commissioner vide impugned order changed the classification of the said goods under Chapter heading 8414 90 30 as parts of electric fan. The Revenue relied on the examination report which showed that the packing material as well as individual packs containing aforesaid items clearly mentioned the description as "parts of electric fans". The statement of Shri Manok Kumar, Authorised Representative was also recorded wherein he submitted that the said imported goods were intended for use in the ceiling fan but he also submitted that as they are parts of the ceiling fan motor classification under heading 8503 was adopted by them. However, vide his letter dated 14.03.2009, he agreed to the liability and to pay duty. In his further statement dated 19.03.2009, Shri Manoj Kumar stated that they had imported the same goods earlier also and had filed bills of entry for rotor and stator under CTH 8503 and for the remaining items under 8414 but the

Revenue changed the classification of all the goods under heading 8414. The statement of Shri Surojit Chakraborty, representative of CHA was also recorded wherein he submits that appellant were earlier also importing the parts of ceiling fan and classifying under heading 8414 however, in the present consignment only five parts of electric motor have been imported therefore, the goods did not merit classification under heading 8414.

2.1 Ld. Counsel pointed out that goods in the instant case merits classification under 8503 and not under heading 8414. He argued that the imported items were to be used for assembly of electric motor which can be used in the manufacture of ceiling fans. He argued that the classification has to be determined according to the terms of the headings. He pointed out that heading 8501 covers electric motors and generators excluding generating sets and heading 8503 covers parts suitable for use solely and principally with the machines of heading 8501 and 8502. He argued that since the items imported are to be solely and principally to be used in electric motor, they merits classification under heading 8501. He relied on the HSN explanatory notes of Chapter heading 8503 which reads as under :-

> **"85.03 - Parts suitable for use solely or principally with the machines of heading 85.01 or 85.02**.
>
> **Subject** to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI) this heading covers parts of the machines of the two preceding headings. The very wide range of parts classified here includes:
> (1) **Shells and cases, stators, rotors, collector rings, collectors, brush-holders, excitation coils.**
>
> (2) Electrical sheets and plates in shapes other than square or rectangular."

He pointed out that stator and rotor are specifically covered in the said explanatory notes as part of motors. He relied on the decision of Hon'ble

Apex Court in the case of *Collector of Central Excise vs. Wood Craft Products Limited – (1995) 3 SCC 454* wherein it has been held that a specific heading has to be preferred over the general heading. He also relied on the decision of the Tribunal in the case of *CCE vs. Jyoti Electricals Motor Limited – 2003 (162) ELT 1117 (Tri.)* wherein it has been held that rotor and stators before being used in mono block pump, classifiable as parts of electric motors as parts of mono block pump and the products being marketable commodity, to be classified under heading 8503 and not under heading 8413. Ld. Counsel also relied on the decision in the case of *CCE vs. Chitra Industries – 1997 (92) ELT 571 (Tri.)* wherein relying on the decision in the case of Jyoti Electricals Motor Limited (supra) it was held that parts namely rotors and stators used in the manufacture of monoblock power driven pumps classifiable under heading 85.03.

2.2 Ld. Counsel further submits that the classification has to be made on the basis of the condition of the goods at the time of import and not based on subsequent use. He relied on the decision of Hon'ble Apex Court in the case of *Commissioner of Customs, New Delhi vs. Sonly India Limited – 2008 (231) ELT 385 (SC).* Ld. Counsel further argued that specific heading should prevail over the general heading and he relied on the decision of Hon'ble Apex Court in the case of *Speedway Rubber Company vs. CCE, Chandigarh – 2002 (143) ELT 8 (SC)*. He also relied on Rule 3(a) of General Rules for the interpretation of Import Tariff wherein it is stated that most specific description shall be preferred to headings providing a more general description. Rule 3(b) provides that mixtures, composite goods consisting of different materials and goods put up in sets, cannot be classified by reference to Rule 3(a), should be classified as if they consisted to the material which gives them their essential character. He submits that Rule

3(c) provides that when goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order.

2.3 He further argued that the imported goods are not liable to confiscation under Section 111(m) of the Customs Act. He relied on the decision of the Tribunal in the case of *Universal Chemical (India) vs. Collector of CCE, Bombay – 1999 (105) ELT 379 (Tri.)* wherein the Tribunal observed that claiming classification of the goods under a particular heading is a matter of belief and not amounting to mis-declaration in terms of Section 111(m) of Customs Act.

3. Ld. AR relies on the impugned order. He pointed out that the CHA had, earlier also filed checklists for rotors and stators classifying the same under heading 8414 as parts of electric fans. The check lists suggesting the classification under heading 8414 but the importer directed them to file bills of entry under heading 8503. He pointed out that earlier also they had filed bills of entry for import of these items under heading 8503 however, the final assessment in that case was made under heading 8414. He pointed out that the appellants were aware that the correct classification of the items is under heading 8414 and not under heading 8503. He pointed out that in the present case, they had filed bills of entry under heading 8503 for some items while the boxes in which the said goods were imported were of the goods as of the same parts.

4. We have gone through the rival submissions. We find that the present case relates to classification of imported goods namely rotors, stator, down case, top case and down rod etc. imported together. The appellant is

seeking the classification under heading 85.03 whereas the Revenue seeks to classify the items under tariff heading 84.14. The earlier imports of similar goods were assessed by the Revenue under heading 84.14 whereas the appellant had sought classification under 85.03. Revenue argued that the items imported by them are fans in unassembled condition. While Revenue has relied on the Rule 2(a) of the General Rules for the interpretation of the schedule of the Customs Tariff states that:-

> **"2. (a)** Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled. **"**

The appellants are relying on HSN explanatory notes wherein the rotors and stators specifically mentioned as part of electric motor. However, the said HSN explanatory notes are classified by word "subject to general provisions regarding classification of parts (see the General Explanatory Note to Section XVI). Thus the said explanatory notes, in conjunction with General Provisions regarding classification of parts appearing in Section XVI.

5. Section XVI, Note-2 reads as follows:-

> **"2.** Subject to Note 1 to this Section, Note 1 to Chapter 84 and to Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules :
>
> (a) parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;
>
> (b) other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517;

> (c) all other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate or, failing that, in heading 8487 or 8548.**"**

Rule 2(a) of the Section XVI applies to parts which are included or taken to include under heading 84 or 85. It is seen that no heading under Chapter 84 or 85 specifically covers the items like down case, upper case, down rod, stators and rotors in the heading. The Chapter Note 2(b) covers parts which are suitable solely and principally with the machines of heading 8501 and 8502 and the said parts are to be classified in the same heading as the machine. The order-in-original describes the examination report as under:-

The markings on the corrugated boxes are as follows:-

"ORPAT
CEILING FAN
MODEL: All? KING CEILING FAN ITEM: FAN MOTOR
QTY: 6PCS.
N.W.: 15KG
G.W: 17.3 KG

"ORPAT
CEILING FAN
MODEL: AIR QUEEN CEILING FAN ITEM: FAN MOTOR
QTY.: 6PCS
N.W.: 15KG
G.W.: 17.3 KG

"ORPAT
CEILING FAN
MODEL: AIR MASTER CEILING FAN ITEM: FAN MOTOR
QTY.: 6PCS
N.W.: 17.65 KG
G.W: 19.95KG"

The markings in smaller boxes contained in corrugated boxes are as under:

1. AIR QUEEN MODEL
ORPAT
CEILING FAN
2 YEARS GUARANTEE
ISO 9001-2000
Certified Company.
AIR QUEEN/ MC
ZZ SLEEVE TYPE BALL BEARING
FEATURES
1200 MMSWEEP
PRECISION BALANCED BLADE SET

LONG LIFE POWDER COATED BODY
ZZ SLEEVE TYPE BALL BEARING
POWER FULL MOTOR
STRONG AIR DELIVERY
MULTI COLOUR AVAILABLE
HI SPEED
CEILING FAN
ASSEMBLY INSTRUCTIONS FOR CEILING FAN (*Explained with 14 diagrams*).
ASSEMBLY INSTRUCTIONS FOR CEILING FAN REGULATION *(Explained with 8 diagrams)*
SCHEMATIC CIRCUIT DIAGRAM OF CEILING FAN & REGULATION CONNECTION
IMPORTED & MARKETED BY:
AJANTA LIMITED
ORPAT INDUSTRIAL ESTATE, RAJOT-MORBI HIGHWAY,
MORBI- 363 641 (INDIA).
ACCESSORIES:
FAN MOTOR,
PAIR OF CANOPIES
SHACKLE ASSEMBLY
DOWN ROD, BLADE TRIMS.
….. "

From the above, it is seen that whatever was imported by the appellant was specifically designed for ceiling fan. The marking on the corrugated box in which the said goods were imported is "Orpat Ceiling Fan" with "Air Queen Model" also mentioned. In this regard the Rules of interpretation of schedule are relevant. Rule 2 and 3 of the said Rules are as follows:-

"**2.** (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.

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.
>
> (b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3 (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.
>
> (c) When goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration."

It is seen that Customs tariff headings include within purview the items incomplete, unfinished where presented unassembled or disassembled, if the said have the essential character of finished goods. In the instant case, from the observations given by the original adjudicating authority, it is seen that all parts of the fan except the fan blades as a set. The packing also describes the goods as electric fan. The rotors and stators, down case, top case and down rod of motor are also designed specifically to be a part of the fan. In these circumstances, following Rule 2(a), the goods are classifiable under heading 84.14 as unassembled, incomplete fan.

5. The appellant relied on the decision in the case of *Jyoti Electricals Motor Limited (supra)*. It is seen that the said decision relates to product namely 'monoblock pump'. The monoblock pump consists of a block on which a motor and a pump, separately manufactured, are fixed and combined. In monoblock pump, motor need not be specifically designed and only motor with same diameter can be used. The motor comes into existence as a separate entity fixed at the block with mechanical pump. In the instant case, there is no separate motor which comes into existence. An unassembled and incomplete fan with a rod, top case, down case and rotating part comes into existence. It is an incomplete fan as only a fan blade needs to be fixed to make a complete fan.

6. Ld. Counsel also relied on the case of *Chitra Industries (supra)* relating to monoblock pump sets which are different from this specifically designed parts of fan. In view of the above, we find that correct classification of the product would be under tariff heading 84.14 and not under heading 85.03. duty demand on this count is upheld.

7. As regards the imposition of penalty, redemption fine and confiscation, we find merits in the argument of the appellant. The appellant had earlier sought classification under heading 85.03 and the matter can be a subject matter of opinion and therefore, in these circumstances, imposition of penalty and confiscation is not justified as held by Tribunal in the case of *Universal Chemical (India) vs. Collector of Central Excise, Bombay (supra)*. The confiscation and redemption fine are therefore, set-aside and penalties are also set-aside.

8. Appeals are partly allowed in the above terms.

(Order pronounced in the open court on 18.09.2019*)*

(Ramesh Nair)
Member (Judicial)

(Raju)
Member (Technical)

KL