IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, CHENNAI

Customs Appeal No. 42384 of 2016

(Arising out of Order in Appeal C. Cus. II No. 813/2016 dated 23.08.2016 passed by the Commissioner of Customs (Appeals – II), Chennai)

Coromandel International Ltd. **Appellant**
1-2-10, Sardar Patel Road
Coromandel House
Secunderabad – 500 003.

Vs.

Commissioner of Customs **Respondent**
Chennai II Commissionerate
Custom House, 60, Rajaji Salai
Chennai – 600 001.

APPEARANCE:

Shri S. Muthuvenkataraman, Advocate for the Appellant
Ms. Rajni Menon, Authorised Representative for the Respondent

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Hon'ble Shri P. Dinesha, Member (Judicial)
Hon'ble Shri Vasa Seshagiri Rao, Member (Technical)

FINAL ORDER NO. 40610/2026

Date of Hearing: 28.01.2026
Date of Decision: 27.05.2026

Per P. Dinesha,

This appeal is filed against the impugned Order in Appeal C. Cus. II No. 813/2016 dated 23.08.2016 passed by the Commissioner of Customs (Appeals – II) and the only issue in this appeal is the classification of goods imported by the assessee, namely mono potassium phosphate – fertiliser grade. At the time of import, the importer – assessee declared the classification of goods under CTH – – 31056000, which was assessed to BCD at 5%; CVD at 1% and 'Nil' SAD. The Revenue appears to have disputed the declared classification, which prompted the issuance of SCN dated 13.09.2012 wherein, the only reference that was made was to the clarification circular of CBEC No. 44/2001 – Customs dated 06.08.2001. It was thus proposed in the said SCN, to reject the incorrect classification declared by the importer and re-classify the impugned goods under CTH 28352400, thereby demand duty under Section 28(1) of the Customs Act, 1962 along with applicable interest under section 28AA of the Act. It appears that the importer – assessee filed its reply thereby justifying its declared classification which was not accepted by the adjudicating authority during adjudication, which resulted in Order-in-Original No. 47497/2016 dated Nil.05.2016 whereby the authority has confirmed the proposals made in the SCN.

2. Aggrieved by the above demand, it appears that the importer preferred an Appeal before the First Appellate Authority, viz. Commissioner (Appeals) and the Commissioner (Appeals) after hearing the appellant, however, *vide* Order-in-Appeal No.813/2016 dated 23.08.2016 having rejected the appeal thereby upholding the – classification made by the Original Authority. The same has led to the filing of the present Appeal before this forum.

3. We have heard Shri S. Muthuvenkataraman, learned, advocate for the Appellant and Ms. Rajni Menon, learned

departmental representative for the Revenue, we have carefully perused the documents placed on record, we have also gone through the written submissions/synopsis filed during the curse of arguments and we have also gone through the decisions relied upon during the course of arguments before us.

4. After carefully analysing the facts and materials placed in the appeal, we find that the only issue to be decided by us is whether the classification of potassium phosphate imported by the appellant deserves to be classified under CTH31056000 as declared by the appellant or under CTH28352400, as re-classified by the Revenue?

5. A perusal of order in original reveals that the only case of the Revenue to allege misclassification is the Board Circular No. 44/2001 *Supra*; interestingly, we find that in almost identical factual circumstances, Co-ordinate Mumbai Bench of the Tribunal in the case of **Commissioner of Customs (Import), Nhava Sheva vs. Solufeed Plant Product & Services Pvt. Ltd. –** 2018 (4) TMI 1346 – CESTAT Mumbai, which was heavily relied upon by the learned advocate during his arguments before us, has examined the scope and ambit of Circular 44/2001, as analysed by the very Mumbai Tribunal in the case of **Vardhaman Fertilisers and Seeds Private Limited Vs. CCE, Pune –** 2017 (345) ELT 560 (Tri. Mum.). The relevant observations of the learned bench are as under:–

> *"3. Learned Counsel for appellant relies upon the decision of the Tribunal in Vardhaman Fertilizers and Seeds Pvt Ltd v. Commissioner of Central Excise, Pune (2017 (345) ELT 560 (Tri. Mumbai)] and on circular no. 528/79/2016-STO(TU) dated 2nd December 2016. The circular of the Central Board of Excise and Customs directed that*
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> *3. The issue has been examined by the Board and it is clarified that -*
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> *The Circular 44/2001 covers Calcium Nitrate as a separate chemically defined product. It should not be confused with mixtures or salts where Calcium Nitrate is one of the constituents. Calcium Nitrate on its own, as a single product shall he classified under Chapter 28 whereas Calcium Nitrate along with other salt shall be classified under Chapter 31. The Circular 44/2001 covers Calcium Nitrate as a single product only. This Circular is not applicable to mixtures or compounds. Such mixtures shall be classified under Chapter 31."*

6. Further, the Mumbai bench has examined the applicability of its own order in **Vardhaman Fertilisers Vs. CCE, Pune – 2017 (345) ELT 560 (Tri. Mum.)** in the context of re-classification attempted by the revenue in respect of the very same product and has held as under:

> "5. There is no doubt *that the Learned Authorised Representative is correct in asserting that the end use should not, unless specially mandated, determine classification. Nonetheless, when the grouping of products and their description very obviously connotes end-use such disassociation cannot be said to be intended. Chapter 31 of the First Schedule to the Customs Tariff Act, 1975 deals entirely with fertilisers. Fertilisers, by its very nomenclature, indicates nothing but their usage; these are intended for use in agriculture for ensuring better yield of crop. Though the expression 'fertiliser' is an umbrella description, the specific goods that constitute fertilisers are enumerated therein. It is universally accepted that there are three basic fertilizing elements - nitrogen, phosphorus and potassium each of which makes a particular attribution to the yield. The explanatory notes to the Harmonized System of Nomenclature for chapter 31 excludes 'separate chemically defined compound' but does not exclude those answering to descriptions in note 2A, 3A, 4A or 5. A common feature of these negative exclusions is that they should not be put up in forms and packages described in heading 3105. In other words, as long as they answer to the description and are in*

bulk, these including mixtures of nitrates, phosphates and potassium would be classifiable as fertilizer. There is no doubt that the imported goods are composed of two of the fertilizing elements out of the three.

6. The exclusion for separately defined chemical compound from chapter 31 is but natural as fertilisers are also indisputably inorganically chemicals or inorganic compounds. Hence such separate chemically defined compound that are not intended for use as fertilizer would, by default, be classifiable within the appropriate entry in Chapter 28 of the first schedule to the Customs Tariff Act, 1975. The Fertilizer (Control) Order, 1985 makes it very clear that the items under import are fertilisers for which licences have been issued by the Government of Maharashtra. We, therefore, do not find any substance in the argument that end-use should not determine classification under Chapter 31."

7. In the light of the above clear finding by the Coordinate Mumbai Bench, of the clear view that the goods in question that is mono potassium phosphate declared by the appellant is required to be upheld. Further, as the Revenue is not able to distinguish the binding decision of Coordinate Bench either on factual matrix or change in law, we do not find any merit in the attempted re-classification by the Revenue.

8. In the result, the impugned order is set aside and the appeal is allowed with consequential reliefs if any, as per law.

(Order pronounced in open court on 27.05.2026)

sd/-
(**VASA SESHAGIRI RAO**)
Member (Technical)

sd/-
(**P. DINESHA**)
Member (Judicial)

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