**BY E-MAIL / COURIER**

**File No.61/2024-Opinion**

23.03.2024

M/s. ECHT Logistical Solutions,

Sea View Towers, 4th Floor "E",

9/12, Krishnan Koil Street,

Opp. to Harbour Telephone Exchange,

Chennai – 600 001.

Attn.: Mr. K. Elanchelian, Partner <echtdocumentation@hotmail.com>

**Mobile: 99406 50915**

Sir,

**Sub.: Duty Demand on Joss Powder.**

1. In connection with the above, find attached the following.

(a) Opinion.

(b) Our Bill towards professional charges.

2. Should you need any further clarification in this regard, please feel free to contact me. Kindly arrange for payment of the bill.

Regards,

Murugappan

Attached: as above.

sm/ss

**OPINION**

**1. QUERIST:**

M/s. ECHT Logistical Solutions, Chennai on behalf of Pranitha Agarbattis, Tirupathur.

**2. FACTS:**

Pranitha Agarbattis, the client of the querist regularly imports White Joss Powder for making incense sticks. These are being classified under heading 1211 9029 and basic Customs Duty at 15%, Social Welfare Surcharge at 10% and IGST at 5% is being paid. On audit of bills of entry filed by the above firm for clearance of joss powder, it was pointed out that joss powder, as such, is not eligible for 15% concessional duty in terms of Notification 50/2017 dated 28.06.2017. It was pointed out that Sl.No.49 of the Table attached to the above notification covers only goods that are fresh or dried and not any powder. On that basis, it was suggested that basic Customs Duty is payable at 30%. Accordingly, the importer was asked to pay a differential duty of Rs.6,61,709/- for the three imports made in October 2021, July 2023 and October 2023.

**3. QUERY:**

In the above context, querist would like to know the correctness of the objection raised by audit.

**4. OPINION:**

# 4.1 The product imported is described as “Joss Powder” and it is stated that it is derived from 100% natural bark, leaves, twigs of the tree. Due to its strong viscosity and adhesive properties, it is used as binding material to make agarbatti sticks for incense manufacturing industry. The production flow chart mentions the following:

The bark, leaves, twigs are removed from white joss tree which is grown in China

It is dried to remove moisture

It is cleaned by hand/ machine to remove impurities

Then it is ground to turn it into fine white joss powder

Then it is packed in pp bags and stitched

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4.2 It may be seen that Notification 50/2017 mentioned above covers only the following goods.

“All goods, fresh or dried, other than liquorice roots”

For these items, concessional duty at 15% is leviable. For other goods falling under this heading i.e. 1211 90, standard duty will be applicable.

4.3 As the product imported is in powder form and not fresh or dried products of vegetable origin, the audit objection raised is correct and differential duty will be payable by the importer on merit. Therefore, differential duty can be paid at the earliest along with interest to avoid accumulation of further interest.

4.4 At the same time, it is pointed out that out of the three bills covered by audit letter, one bill of entry relates to imports made in October 2021 and any demand for duty in respect of that import will be hit by limitation if normal period of two years limitation is applied. In respect of cases where the department alleges suppression or mis-statement, then, the demand can be issued for a period of five years instead of two years.

4.5 In the present case, there will not be any basis to allege that the importer mis-stated any facts. Therefore, there may not be any scope to allege suppression and invoke extended period of five years for demand of duty. However, it is to be noted that in spite of this legal position, usually, the department issues notices invoking extended period and alleging suppression even in respect of cases involving simple wrong classification or application of notification benefit. Therefore, if any notice is issued, relief can be obtained only in appeal proceedings.

4.6 These may be taken into consideration and the question of payment of duty and interest by including the consignment imported in 2021 also can decided by the importer.

**S. MURUGAPPAN**

sm/ss

**Disclaimer:-** The above opinion is provided based on the information and documents made available to us by the querist and further based on the laws and rules prevalent as on date and the understanding of such provisions by the author and is meant for the private use of the person to whom it is provided without assuming any liability for any consequential action taken based on the views expressed here.