

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
NEW DELHI**

PRINCIPAL BENCH - COURT NO. 1

**Customs Appeal No. 50280 of 2022**

(Arising out of Order-in-Appeal No. CC(A)/Customs/D-II/IMP/ICD/TKD/1143/2021-22 dated 13.09.2021 passed by the Commissioner of Customs (Appeals), New Custom House, New Delhi)

**Principal Commissioner of Customs,**  
Inland Container Depot (Import),  
Tughlakabad, New Delhi

**....Appellant**

VERSUS

**M/s Kartar Valves Pvt. Ltd.**  
Juneja Complex, Village Variana,  
Karpurthala Road, P.O. Magra, Jalandhar

**....Respondent**

WITH

**Customs Stay Application No. 50078 of 2022**

**APPEARANCE:**

Shri Ravi Chopra, Authorized Representatives of the Department  
Shri Viswajeet Saharan, Advocate for the Respondent

**CORAM:**

**HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT  
HON'BLE MR. P.V.SUBBA RAO, MEMBER (TECHNICAL)**

**Date of Hearing/Decision: 04.11.2022**

**Final Order No. 51063/2022**

**JUSTICE DILIP GUPTA:**

The Principal Commissioner of Customs, Inland Container Depot (Import), Tughlakabad, New Delhi<sup>1</sup> has filed this appeal to assail the order dated 13.09.2021 passed by the Commissioner of Customs (Appeals) by

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**1. the Principal Commissioner**

which the order dated 04.01.2021 passed by the Deputy Commissioner of Customs, confirming the demand of differential duty of Rs. 2,82,524/- raised in the show cause notice dated 17/07/2020 issued under section 28(1) of the Customs Act, 1962, has been set aside and the appeal filed by the Respondent has been allowed.

2. The respondent imported 'fire sprinklers' through a Bill of Entry dated 09.07.2018 claiming and they were parts of fire production system and classified them under Customs Tariff Heading 84249000 on payment of 7.5 per cent towards basic customs duty plus 12 per cent towards Integrated Goods and Service Tax<sup>2</sup>.

3. The goods were cleared by the Customs without any objection but during post clearance audit by the Customs Audit Commissionerate, New Delhi an objection was raised that IGST at the rate of 18 per cent was payable on fire sprinklers in terms of Serial No. 325 of Schedule III to the Notification dated 28.06.2017 and not at the rate of 12 per cent as claimed by the respondent at Serial. No. 195B of Schedule-II of the said notification dated 28.06.2017.

4. Based on the aforesaid objection, a show cause notice dated 17.07.2020 was issued to the respondent proposing a demand of Rs. 2,82,524/- due to incorrect application of IGST rate. The respondent submitted a reply but the Deputy Commissioner confirmed the demand by order dated 04.01.2021. Feeling aggrieved, the respondent filed an appeal before the Commissioner (Appeals) and, as noticed above, the appeal was allowed by order dated 13.09.2021.

5. The issue that arises for consideration in this appeal is as to whether

sprinklers imported by the respondent claiming them to be part of the fire protection system would fall under entry at Serial No. 195B or entry at Serial No. 325 of the notification dated 28.06.2017. The relevant portion of the notification is reproduced below:-

S. No.	Chapter/Heading/S ub-heading/Tariff item	Description of Goods
(1)	(2)	(3)
195B	8424	Sprinklers; drip irrigation system including laterals; mechanical sprayers
325	8424	Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines [other than sprinklers; drip irrigation systems including laterals; mechanical sprayer; nozzles for drip irrigation equipment or nozzles for sprinklers

6. It needs to be noted that entry at Serial No. 195B falls in Schedule-II for which the rate of integrated tax is 12 per cent, while the entry at Serial No. 325 falls in Schedule-III for which the rate of integrated tax is 18 per cent.

7. The Deputy Commissioner, in the order dated 30.12.2020, held that the goods would fall under entry at Serial No. 325 of Schedule-III of the Notification dated 28.06.2017 and the relevant portion of the order is reproduced below:-

“ **9.** I find that the importer declared the description of the impugned item as “Pendent Fire Sprinkler (Part of Fire Protection system)” and the same is used to spray water over flames if fire broke out.

**9.1** I find that the Sr. No. 325 specifically covers Mechanical Appliances, whether or not hand-operated for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charges; spray guns and similar appliances, whereas Sr. No. 195B covers sprinkles to be used in irrigation system. It is pertinent to mention here that CBIC vide Circular No. 81/55/2018-GST dated

31.12.2018 has clarified that the term "sprinkler", in the entry 195B, covers sprinkler irrigation system and the sprinkler system consisting of nozzles, lateral and other components would attract IGST@12%. Since the impugned goods imported vide Bill of Entry No. 7130766 dated 09.07.2018 are other than sprinkler irrigation system and the same is used for different purpose. I find that impugned goods correctly falls under Sr. No. 325 Schedule III of said IGST Notification. Therefore, I am of the view that the importer is required to pay differential duty of Rs. 2,82,524/- under section 28(1) of the Customs Act, 1962. "

9. Before the Commissioner (Appeals), the Department placed reliance upon a Circular dated 31.12.2018 and the same is reproduced below:-

"C.B.I. & C. Circular No. 81/55/2018-GST, dated 31-12-2018

F. No. 354/408/2018-TRU

Government of India  
Ministry of Finance (Department of Revenue)

Central Board of Indirect Taxes & Customs, New Delhi

Subject: Clarification regarding GST tax rate for Sprinkler and Drip Irrigation System including laterals Regarding.

Representations have been received seeking clarification as regards the scope and coverage of entry No. 195B of the Schedule II to notification No. 1/2017-Central Tax (Rate), dated 28-6-2017. The entry No. 195B was inserted vide notification No. 6/2018-Central tax (Rate), dated 25th January, 2016 and reads as below:

S. No.	Chapter Heading/Sub-heading/Tariff Item	Description of Goods	CGST rate
195B	8424	Sprinklers; drip irrigation system including laterals;	6%

2. Doubts have arisen as in certain cases a view has been taken in the field that this entry would not cover "laterals of sprinklers" and

"sprinklers irrigation system", while laterals of drip irrigations are covered by this entry.

3. The matter has been examined. Initially, with effect from 1-7-2017, all goods falling under HS 8424, namely, Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines (other than fire extinguishers, whether or not charged), were placed under 18% slab. Subsequently, on the recommendation of the GST Council, the item namely, "Nozzles for drip irrigation equipment or nozzles for sprinkler was placed under 12% GST slab (Entry No. '195A' with effect from 22-9-2017). Upon revisiting the issue of GST rate on micro irrigation including drip irrigation system, including laterals the GST Council recommended 12% GST rate on micro irrigation system, namely, sprinklers, drip irrigation system, including laterals. Accordingly, the said entry 195B was inserted in the notification No. 1/2017-Central Tax (Rate).

3.1 The micro irrigation, sometimes called 'localised irrigation', low volume irrigation', or 'trickle irrigation" is a system where water is distributed under low pressure through piped network, in a pre-determined pattern, and applied as a small discharge to each plant or adjacent to it. The traditional drip irrigation using individual emitters, subsurfaces drip irrigations (SDI), micro-spray or micro-sprinkler irrigation, and mini bubbler irrigation all belong to the category of micro irrigation method.

4. Therefore, the term "sprinklers", in the said entry 195B, covers sprinkler irrigation system. Accordingly sprinkler system consisting of nozzles, lateral and other components would attract 12% ST rate.

5. Difficulty, if any, may be brought to the notice of the Board immediately. Hindi version shall follow. "

10. The operative part of the order passed by the Commissioner (Appeals) is reproduced below:-

" There is no dispute that the impugned goods are 'sprinklers' and classifiable under CTH 8424. It is also evident that entry 195B mentions "Sprinklers" and entry 345 excludes "Sprinklers". However, the Adjudicating Authority has taken recourse to Circular 81/55/2018-GST dated 31.12.2018 to conclude that entry 195B covers sprinkler irrigation system and since sprinklers under dispute are used for different purpose, they will fall under entry 345.

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Plain reading of this circular reveals that it has been issued to clarify doubts that had arisen as in certain cases a view had been taken in the field that this entry would not cover "laterals of sprinklers" and "sprinklers irrigation system", while laterals of drip irrigations are covered by this entry. In this context, the Circular clarified that:

"the term "sprinklers", in the said entry 195B, covers sprinkler irrigation system. Accordingly, sprinkler system consisting of nozzles, laterals and other components would attract 12% GST rate".

However, it is nowhere mentioned that only sprinkler irrigation system would be covered by the term "Sprinkler", Hence, reliance of this circular deny applicability of entry 195B to impugned goods is misplaced.

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In the present case, word used is "Sprinklers" and there is no explanation added to it in the notification. Thus, restricting the applicability to sprinkler irrigation system or sprinklers for irrigation systems would violate the laid down principles of interpretation. If the intention is to grant benefit to sprinkler irrigation system or sprinklers for irrigation systems only, the notification would have mentioned the same specifically. Accordingly, in the present form of entry no. 195B, its applicability to impugned goods cannot be denied. Accordingly, the demand for duty and interest does not sustain. "

11. Shri Ravi Chopra, learned authorized representative appearing for the Department placed reliance upon the Circular dated 31.12.2018 to contend that the Commissioner (Appeals) committed an illegality in

holding that the goods imported by the respondent would fall under entry at Serial No. 325 of the notification dated 28.06.2017.

12. Shri Viswajeet Saharan, learned counsel appearing for the respondent, however, supported the impugned order.

13. The submissions advanced by the learned authorized representative appearing for the Department and the learned counsel appearing for the Respondent have been considered.

14. The description of goods contained at Serial No. 195B of the notification dated 28.06.2017 is sprinklers; drip irrigation system including laterals; mechanical sprayers. It, therefore, covers three goods namely-

- i. Sprinklers;
- ii. Drip irrigation system including laterals; and
- iii. Mechanical sprayers

15. On the other hand, sprinklers have not been included in the description of goods contained at Serial No. 325 of the notification dated 28.06.2017 and in fact they seek to exclude what is contained at Serial No. 195B of the said notification. It is also clear that Serial No. 195B of the notification does not restrict the sprinklers to any category. Reliance placed by the learned authorized representative on the Circular dated 31.12.2018 is misconceived. The said Circular is in connection with the doubts that had arisen in certain cases wherein a view had been taken that entry at Serial No. 195B would not cover 'laterals or sprinklers' and 'sprinklers irrigation system' and it is in this connection that it was stated that the term 'sprinklers' in the said entry 195B would cover sprinkler irrigation system also. It cannot be concluded from the aforesaid Circular that fire sprinklers are excluded from sprinklers. In fact 'sprinklers' and

'drip irrigation system including laterals' are separated by a semi colon.

16. The conclusion drawn by the Commissioner (Appeals) is, therefore based on a correct interpretation of the Circular and the relevant entries of the notification dated 28.06.2017.

17. The order passed by the Commissioner (Appeals), therefore, does not suffer from any illegality. The appeal and the stay application are, accordingly, rejected.

(Order Pronounced in the open Court)

**(JUSTICE DILIP GUPTA)**  
**PRESIDENT**

**(P.V. SUBBA RAO)**  
**MEMBER (TECHNICAL)**