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REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 569 OF 2012

COMMISSIONER OF CUSTOMS,
KANDLA, GUJARAT …APPELLANT(S)

VERSUS

M/S RELIANCE INDUSTRIES
LIMITED … RESPONDENT(S)

J U D G M E N T

ARAVIND KUMAR, J.

1. The Appellant – Revenue is knocking the doors of this Court calling in question, the decision of Customs Excise and Service Tax Appellate Tribunal (hereinafter referred to as 'CESTAT'), Ahmedabad delivered on 15.07.2011 in Order No.A/1280/WZB/AHD/2011 in Appeal No. C/588/04 whereunder CESTAT dismissed the appeal. The principal issue

for consideration in the instant appeal is whether the imported product, viz, "*n*-Hexane" or "Exxsol Hexane", is to be treated as a Petroleum Oil and is to merit classification under Customs Tariff Heading 2710.00 (hereinafter referred to as 'CTH 2710.00') and Central Excise Tariff Heading 2710.12 (hereinafter referred to as 'CETH 2710.12') as contended by the Appellant-Revenue, or as a Pure Hydrocarbon existing as a Separate Chemical Compound under Customs Tariff Heading 2901.10 (hereinafter referred to as 'CTH 2901.10') and Central Excise Tariff Heading 2901.90 (hereinafter referred to as 'CETH 2901.90') as claimed by the Respondent – Assessee.

2. At the outset, we deem it pertinent to clarify that the imported products are "Exxsol Hexane RD/ Hydrosol *n*-Hexane" which also bear the common chemical nomenclature of "*n* - Hexane" or "Normal Hexane". Henceforth, the imported product shall be referred to as "*n* – Hexane" for convenience.

I. FACTUAL MATRIX AS IN THE CASE OF COMMISSIONER OF CUSTOMS, KANDLA v. M/S RELIANCE INDUSTRIES LTD.

3. The Respondent-Assessee filed Bill of Entry claiming clearance of *n*-Hexane under Customs Tariff Heading 2901.10

('CTH 2901.10') and Central Excise Tariff Heading 2901.90 ('CETH 2901.90') by self-classifying the same as a Saturated Acyclic Hydrocarbon existing as a compound in pure commercial form. The imported product was subject to Chemical Test and pending the report, provisional assessment was undertaken. Pursuant to the result of the test report of the samples provided by SGS Redwood Test Analysis Report dated 10.05.2000, the Appellant-Revenue issued Show Cause Notice dated 21.03.2001 to the Respondent-Assessee for clearance of the goods under the heading of Chapter 27, i.e, CTH 2710.00 and CETH 2710.12 deeming the imported product to be an admixture of various hydrocarbons and not a pure compound. The Respondent- Assessee was called upon to show cause as to why *n*-Hexane ought not be classified under CTH 2710.00 and CETH 2710.12.

4. The Show Cause Notices referencing to the test report stated that the distillation range of *n*-Hexane is between 67°C to 70°C indicating that it is an admixture of various hydrocarbons. Further, it also stated that the flash point of *n*-Hexane is less than 25°C and as it falls under the category of Motor Spirit used in spark ignition engine it is thus, rightly classifiable under Chapter 27, i.e., CTH 2710.00 and CETH 2710.12.

II. FINDINGS OF THE ADJUDICATING AUTHORITY, ASSISTANT COMMISSIONER OF CUSTOMS

5. Before the Assistant Commissioner of Customs, the Respondent-Assessee contended that the Show Cause Notice was extremely vague, unspecific, and unsustainable inasmuch as it does not bring on record any evidence to classify the imported product under Chapter 27. They further submitted that since *n*-Hexane is a colourless volatile liquid soluble in water and as it is a saturated hydrocarbon, it is to be correctly classified under Chapter 29 wherein its specific entry is found. Mere consideration of the flash point, boiling point alone to justify classification under Chapter 27 without considering the chemical composition, nature of the imported product and the satisfaction of the express conditions/stipulations mentioned under the Customs Tariff Headings and Central Excise Tariff Headings which ultimately makes the classification under Chapter 27 is erroneous and illegal.

6. After awarding due consideration to the replies, submissions, and both oral and documentary evidence, and after hearing the parties, the adjudicating authority passed Order-in-Original No. KDL/AC/SB/03/2003 dated 01.09.2003/25.09.2003. In the said order, *n*-Hexane was classified under Customs Tariff

Heading 2710.00 and Central Excise Tariff Heading 2710.12. This conclusion was primarily based on the chemical test results delivered by SGS Redwood Services, which indicated that the flash point of *n*-Hexane is less than 25°C and its distillation range lies between 64°C and 70°C. Consequently, it was held that the imported substance is not a pure compound but a mixture of various hydrocarbons, and is therefore appropriately classifiable under Chapter 27.

7. Finally, the Adjudicating Authority came to a finding that since the flash point of imported material was less than 25°C, it is a Motor Spirit falling under CTH 2710.00 and CETH 2710.12 under the broad heading of Chapter 27. In view of the foregoing reasoning, the Adjudicating Authority rejected the claims of the Respondent - Assessee and ruled that the imported substance was liable to be classified under CTH 2710.00 and CETH 2710.12.

8. On being aggrieved by the said order passed by the Adjudicating Authority, the Respondent - Assessee preferred an Order-in-Appeal before the Office of the Commissioner.

III. FINDINGS OF THE COMMISSIONER IN ORDER-IN-APPEAL PREFERRED BY THE RESPONDENT - ASSESSEE

9. The Commissioner (Appeals), having gone through the factual matrix, noted that the Assistant Commissioner principally relied upon the Chemical Test Report to arrive at a conclusion that *n*-Hexane must be classified under Chapter 27 of the Customs Tariff Act and Central Excise Tariff Act as the flash point was below 25°C.

10. However, before the Commissioner (Appeals) the preliminary point raised and duly considered by the Commissioner was that the Harmonized System Nomenclature Notes (hereinafter referred to as 'HSN Notes') are guiding light to the interpretation of the Customs Tariff in case of any dispute with regard to classification. Accordingly, reference was made to the judgment of this Court in ***CCE v. M/s Wood Craft Products Limited***[1], which in substance, rightly provided so that the HSN Notes are an internationally accepted nomenclature aimed at resolving tariff classification. As such, HSN Chapter Heading 29.01 deals with acyclic hydrocarbons which are both saturated

[1] **(1995) 3 SCC 454**

and unsaturated. It was held that there is a specific mention of Hexane under heading 2901.10.

11. The Commissioner (Appeal) was of the view that the original analytical report issued by SGS Redwood Services dated 10.05.2000 is congruent to the HSN heading which specifically mentions Hexane under HSN Heading 2901.10 having 6 atoms of Carbon with Hydrogen bond. Thus, on combined reading of Chapter 29.01 of the Central and Customs Excise Tariff, *n*-Hexane ought to be classified under CTH 2901.10 and under CETH 2901.90.

12. Thus, the Order-in-Appeal No. 134/2004/101(KDL) Commr (A)RAJ was allowed and the order dated 01/25.02.2003 passed by the Adjudicating authority was set aside prompting the Appellant-Revenue to file an appeal before the CESTAT.

IV. FINDINGS OF THE CESTAT UNDER THE IMPUGNED ORDER

13. Succinctly, CESTAT substantiated the said issue in few distinct points. Essentially, the CESTAT dismissed of the appeal of the Appellant-Revenue and consequently allowed the claim of the Respondent- Assessee thereby upholding the order

of the Commissioner of Appeals. The findings of CESTAT are summarised below.

14. The instant appeal filed by the Appellant-Revenue was squarely covered by the decision in the case of ***Unimers India Limited v. Commissioners of Customs, Mangalore***[2] wherein the classification of consignment of *n*-Hexane and several questions inter alia was decided by the Commissioner of Appeals by placing emphasis on the Foreign Trade Policy regarding the classification of any item in the Indian Trade Classification based on Harmonized System [hereinafter referred to as 'ITC (HS)'], more particularly para 2.3 which specifically provided that the any doubt in respect of classification of any item shall be referred to the Directorate General of Foreign Trade (hereinafter referred to as 'DGFT') and the decision of the DGFT shall be final. In pursuance to doubts raised, the DGFT had clarified that the classification of Hexane shall be under Chapter 29 of the Customs Tariff vide Policy Circular dated 14.07.2004.

15. The SGS Report stated that the Distillation Range is at 67.2°C and that as per the Kirk-Othmer Encyclopedia, wherein the chemical characteristics of Hexane in Table 10 categorically

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[2] 2009 SCC OnLine CESTAT 5021

provides that the Distillation Range is 68.3°C and the Flash Point at -23°C which is less than 25°C. On comparison between the two, there appears not much difference in the composition of the product. Pure hexane, being derived from the method of fractional distillation of crude petroleum oil and is not possible to completely remove certain impurities such as benzene, polythene, compounds of sulfur, oxygen and chlorine and the same is reflected in the Kirk-Othmer Encyclopedia. Furthermore, CESTAT noted that the purity of Hexane is 63.91% as per the Table in the Encyclopedia and as per the SGS Report, the purity stands recorded at 63.93% and the same matches.

16. CESTAT then referred to the HSN explanatory Note which expressly named Hexane under the heading 29.01. Pertinently, the explanatory note under Chapter 27 primarily deals with coal, natural minerals, petroleum oils, crude oils and its fractions and their distillation products and thus expressly excludes compounds such as ethane, benzene, phenol, pyridine as they fall under Chapter 29 due to their specific purity criteria.

17. Accordingly, CESTAT held that a separate chemically defined organic compound in its pure or commercial state is

particularly placed under Chapter 29 and not under Chapter 27 as it correctly matches the chemical composition and description of commercially available pure Hexane. Thus, the imported product existing in pure form with admitted impurities shall not be classified as an isomer but as an independent compound.

18. Further, with regard to the impurities, CESTAT was of the view that it is not possible to remove all impurities and that the presence of impurities such as sulfur, oxygen, chlorine are also referred in the Kirk-Othmer Encyclopedia. However, it appears in the table, the purity of *n*-Hexane is 63.91%.

19. Furthermore, CESTAT relied upon the DGFT circular dated 14.07.2004 issued under ITC (HS) which categorically stated that the import of Hexane is covered under Chapter 29 of the ITC (HS) Classifications of Export and Import Items, 2002-07.

20. In conclusion, the CESTAT also noted that the Appellant-Revenue has not placed any evidence to show that the imported good which are used as solvents are used as spark engine and thus, the very contention of the product falling under Chapter 27 falls bereft of any evidence to the same.

V. SUBMISSIONS CANVASSED BY THE APPELLANT – REVENUE

21. Mr. S Dwarkanath, the Learned ASG appearing for the Appellant-Revenue has taken this Court through the following arguments –

22. The filing of the Bill of Entry by the Respondent-Assessee was subject to provisional assessment and a Chemical Test ought to be conducted. The SGS Chemical Test Report of the imported goods recorded that the imported good is a "mixture of saturated hydrocarbons in the form of clear colourless liquid flashing below 25°C and having boiling point between 66°C to 69°C". Hence, the Learned ASG submitted that factually, the nature of the product was that of an isomer with impurity.

23. On the legal aspects, the Learned ASG submitted that the main point for consideration is that the product imported by the Respondent-Assessee is excluded from Chapter 29 of Customs Tariff Act. He refuted the reliance of the CESTAT on ***CCE v. Woodcrafts Products Limited*** (supra) by contending and submitting that the Tariff Act is dependent on HSN Notes only to the extent of a dispute and if warranted so. However, if the Tariff Act is explicit on the

classification of a product, HSN Notes need not be employed to determine the heading under which the imported product ought to be placed.

24. Thus, it was submitted that in the instant case, once the Tariff Act was clear on the classification of the imported product under Chapter 27, the CESTAT erred in placing reliance on HSN Notes and the Explanation appended. As per Chapter note 1(b) to Chapter 29 of HSN Explanatory Notes, a mixture of acrylic hydrocarbon isomer, whether saturated or not, are excluded from Chapter 29 and are classifiable under Chapter 27.

25. It was lastly submitted that the once the SGS Test Report has specifically stated that the imported product has a Distillation Range (boiling point) between 63 to 70 °C and flash point of below 25°C, the same shall be an admixture of hydrocarbons and not a pure commercial compound and ought to be classified under Chapter 27 of the Customs Tariff Act and not under Chapter 29.

VI. SUBMISSIONS CANVASSED BY THE RESPONDENT - ASSESSEE

26. Per contra, Mr. Shyam Divan, the Learned Senior Counsel appearing on behalf of the Respondent - Assessee submitted as follows:

27. It was vehemently argued that *n*-Hexane is an Acyclic Straight Chain Hydrocarbon containing six carbon and hydrogen bond represented as C6H14 and are components of Petroleum oils. While Petroleum oils and oils are covered from bituminous minerals, other than crude oil, Acyclic Hydrocarbons which are a component of Petroleum oil are specifically placed under Chapter 29.

28. Reliance was placed on decisions of this Court in ***CCE v. Madhan Agro Industries (India) P. Ltd***[3]; ***CCE v. Wood Craft Products Ltd*** (supra) ; ***CCE v. Bakelite Hylam Ltd***[4]; ***CC v. Business Forms Ltd***[5] and ***CC v. Phil Corporation Ltd***[6] to contend that the Courts can safely refer the internationally accepted HSN Notes for resolution of any dispute with respect to classification. It is then submitted that since Hexane is

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[3] 2024 SCC Online SC 3775
[4] (1997)10 SCC 350
[5] (2005) 7 SCC 143
[6] (2008) 17 SCC 569

covered under Chapter 29 Heading 29.01 of the HSN Explanatory Notes, the same is to be rightly placed thereunder and not under Chapter 27.

29. Normal Hexane or *n*-Hexane is a "Separately Chemically defined compound" which means that it is a single chemical compound which does not contain any other substance deliberately added during or after its manufacture. Any added substance changes the chemical composition to make the substance a mixture and it ceases to be a pure compound. However, mere presence of impurities will not make it a mixture as according to the HSN Explanatory Notes, the term impurities are only meant for those impurities that are only borne out of the manufacturing process. Thus, it is argued that it is not apparent from the Show Cause Notice that any impurity has been deliberately added during the manufacturing process or deliberately left behind or in any other manner making it a mixture.

30. In addition, the Learned Senior Counsel also submitted that the imported Hexane in the commercially pure form has 63.93% of *n*-Hexane and the remaining are other components correctly classified under unconverted starting materials which are not deliberately added to the imported product. Thus, the thrust of

the argument of Learned Senior Counsel was the presence of impurities did not change the composition of the imported product as the major component of the compound, i.e., *n*-Hexane remained at 63.93%.

31. With regard to the HSN Explanatory Note, the Learned Senior Counsel submitted that the classification of Hexane under CTH 2901.10 and CETH 2901.90 is also supported by Policy Circular No.40 (RE-2003)/2002-2007 dated 14.7.2004 issued by the DGFT wherein it is clearly mentioned that the import of Hexane will fall under Chapter 29.

32. It was contended and submitted that for a compound to fall under Chapter 27, more particularly CTH 2710.00 and CETH 2710.12, it must be a Motor Spirit and must satisfy two conditions, i.e., the flash point has to be below 25°C and that it must be used as a fuel spark in ignition engines. Merely because of the boiling point range of the imported good fell in the range of 63-70°C and that the flash point was less than 25°C, the same cannot be classified under Chapter 27. The Show Cause Notice has failed to prove that *n*-Hexane is used as a fuel in spark ignition engines and is bereft of any details to the same. It was specifically submitted that the imported product obtained from the process of fractional distillation

from petroleum is used as a solvent for vegetable oil, low temperature thermometer, calibrations, polymerization reaction medium, paint diluents etc.

33. It was finally submitted that the Commissioner of Appeals as well as the CESTAT have correctly held that the classification of *n*-Hexane was under Chapter 29 and not under Chapter 27.

VII. ISSUES FOR CONSIDERATION BEFORE THIS COURT

34. Having heard the Learned ASG appearing on behalf of the Appellant – Revenue and the Learned Senior Counsel appearing for the Respondent – Assessee and after the perusal of the entire material on record, we are of the considered view that the following point arises for our consideration.

> *"Whether the imported product, "n-Hexane" or "Exxsol Hexane" is to merit classification under Chapter 27, i.e., CTH 2710.00 and CETH 2710.12 as a Petroleum Oil, more particularly Motor Spirit or under Chapter 29, i.e., CTH 2901.10 and CETH 2901.90 as a Pure Hydrocarbon existing as a Separate Chemical Compound*."

35. In order to ascertain the true classification of *n*-Hexane, we have further formulated various headings which will aid us in correct classification *n*-Hexane.

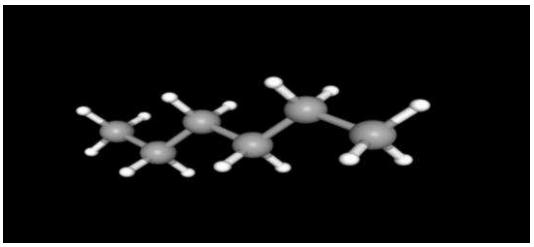
VIII. ANALYSIS/CONSIDERATIONS BY THIS COURT

IN RE: BASIC CHEMICAL COMPOSITION AND PROPERTIES OF n-HEXANE

36. Before we venture into the main issue on classification of *n*-Hexane, we deem it necessary to set the foundation of the basic physical and chemical composition and properties of *n*-Hexane.

37. A hydrocarbon is a compound consisting of carbon and hydrogen atoms only. The atoms of the said elements bond over strong covalent bond by sharing of one or more pairs of valence electrons to form a suitable stable structure. A saturated hydrocarbon a compound comprising of only carbon and hydrogen atoms bonding over single covalent bonds. Hexane is one such generic term for a hydrocarbon that consists of six Carbon atoms and fourteen Hydrogen atoms. *n*-Hexane, covered under the umbrella of Hexane, is one such saturated hydrocarbon bearing Chemical Formula C6H14, most commonly existing in a straight chain structure, represented by a definitive structural diagram as indicated below. *n*-Hexane is a compound that exists in pure form. The

following is the 3-Dimension structural representation of *n*-Hexane[7].



38. As seen from the pictorial representation, the compound is linear, acyclic, has 6 carbon atoms (represented by grey balls) balanced by Hydrogen bonds (white sticks attached the grey ball). Moving on to the concept of *n*-Hexane being an isomer, according to International Union of Pure and Applied Chemistry (IUPAC), an isomer is "*One of several species (or molecular entities) that have the same atomic composition (molecular formula) but different line formulae or different stereochemical formulae and hence different physical and/or chemical properties*". This means that the number of the carbon and hydrogen atoms remains the same but the arrangement of the same differs, giving each separate

[7]**Hexane | C6H14 | CID 8058 - PubChem - NIH**

compound different physical and/or chemical properties. While the straight form is *n*-Hexane or just Hexane, the branched form of the same makes isomers of *n*-Hexane.

39. The CESTAT has relied upon the Kirk-Othmer Encyclopedia to study the physical and chemical properties of *n*-Hexane. This Court also deems it appropriate to reproduce and understand certain concepts of *n*-Hexane for better understanding vis-a-vis classification and tariff determination. The imported product in question as contended by the Respondent-Assessee is pure commercial hexane and the same is manufactured through fractional distillation process petroleum or natural gas. As noted by the encyclopedia and reiterated by the CESTAT, the impurities cannot be reduced to nil but hydrogenation can significantly reduce impurities to make it commercially more viable. Thus, according to Table 10 Hexane A (closest member to *n*-hexane) has Distillation initial boiling point of Hexane in degree centigrade is 68.2. The table also indicates that the impurities such as benzene and sulfur are less in case of Hexane in the table.

40. Apropos, the detailed discussion on *n*-Hexane, we note that *n*-Hexane is a Saturated Acyclic Hydrocarbon with chemical formula C6H14, having a Distillation Range (boiling point)

between 63 to 70°C with flash point at below 25°C as identically recorded by the SGS Test Report.

IN RE: BURDEN OF PROOF IS GRACED OVER THE SHOULDERS OF THE REVENUE

41. As rightly declared by the Courts in a catena of judgments, it is trite law that in matters of classification of goods, the burden of proof rests on the shoulders of the Revenue. This Court in ***Union of India and Ors. v. Garware Nylons Limited***[8] observed:

> "*....The burden of proof is on the taxing authorities to show that the particular case or item in question is taxable in the manner claimed by them. Mere assertion in that regard is of no avail. It has been held by this Court that there should be material to enter appropriate finding in that regard and the material may be either oral or documentary. It is for the taxing authority to lay evidence in that behalf even before the first adjudicating authority…*".

Further quoting para 35 of the judgment rendered by this Court in ***Dunlop India Ltd. v. Union of India***[9] :

> "*...When an article has, by all standards, a reasonable claim to be classified under an enumerated item in the Tariff Schedule, it will be*

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[8] **(1996) 10 SCC 413**
[9] **(1976) 2 SCC 241**

against the very principle of classification to deny it the parentage and consign it to an orphanage of the residuary clause."

42. Most recently, this court in ***Gastrade International v. Commissioner of Customs***[10] at para 45 observes:

> "*There cannot be any dispute to the proposition of law as noted by the High Court that the burden of proof as regards the classification of any goods of importation is upon the Revenue/Customs authority and the standard of proof in proceedings under the Tariff Act is not "beyond reasonable doubt". However, whether "preponderance of probability" can be the appropriate test for classification under the Customs Act would be required to be examined in the light of the "General Rules for the interpretation of this Schedule" as provided in the First Schedule – Import Tariff in Part 2 of the Tariff Act (hereinafter referred to as the "Rules")*"

43. Once we have established that the burden of proof is to be discharged by the Appellant - Revenue and that the test is of preponderance of probability, we now advert to the next limb of arguments raised by the parties, i.e., on the application and interpretation of HSN Explanatory Notes.

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[10] **(2025) 8 SCC 342**

IN RE: ON HSN EXPLANATORY NOTE AND GENERAL RULES OF INTERPRETATION

44. The introduction of Harmonized System of Nomenclature (HSN) Notes marks a significant advancement in the uniform classification of goods for taxation and trade purposes. Developed under the framework of the World Customs Organization, HSN provides a standardized system that ensures consistency and clarity in the identification of goods across jurisdictions. The explanatory notes accompanying the HSN serve as an essential interpretative guide, aiding authorities, courts, and taxpayers in understanding the scope and ambit of tariff entries. Their importance lies in minimizing ambiguity and reducing disputes arising from divergent interpretations of product classifications. By offering detailed descriptions and illustrative guidance, HSN Notes facilitate a more predictable and transparent tax regime. They also promote international harmonization, thereby easing cross-border trade and compliance. In the context of adjudication, reliance on HSN Notes has been recognized as a valuable tool in resolving classification issues. Consequently, their adoption strengthens legal certainty and enhances the efficiency of tax administration.

45. The World Customs Organization aimed at enhancing the effectiveness and efficiently of the Customs Administrations has provided 6 General Rules for the Interpretation of the Harmonized System and more particularly, Rule 3(a) speaks

> "*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.*"
>
> (emphasis supplied)

46. The principle enunciated from the above extraction is that a specific heading is preferred over a general heading. The same has been dealt with this Court wherein the rule of specific over general has gained judicial stamp.

47. Primarily, the controversy involved in the present matter is whether *n*-Hexane is to be classified under Chapter 27 or under Chapter 29 which attracted the contours of Rule 3(a) of the

General Rules of Interpretation which specifically states that the heading which provides for the most specific description shall be preferred to headings providing a more general description. The Rule makes it clear that if any good is classifiable under two headings, the one that is most specific shall be preferred over the one which is general. For applying the said Rule, we deem it appropriate to critically examine Chapter 27 as well as Chapter 29 of the HSN Explanatory Notes in comparison to that of the Customs Tariff and Central Excise Tariff Headings.

48. The contention of the Appellant-Revenue that since the boiling point of the imported good is between 63 - 70°C and since the flash point is below 25°C, it must be classified as a Petroleum oil to be used in spark ignition engine under Chapter 27 is vehemently rebutted by the Respondent-Assessee by categorically referring to the point that Hexane is a separate chemically defined compound existing in pure commercial form as defined under Chapter 29. Thus, under such circumstances, it is necessary to investigate the rival contentions by seeking aid from the HSN Notes to ascertain the Chapter under which the *n*-Hexane has to be classified.

49. As it was specifically contended by the Appellant-Revenue that HSN Explanatory Notes are to be resorted only when there is ambiguity, this Court considers it appropriate to examine the same in the light of the interpretation and guiding value of the Notes.

50. This Court has already dealt with the scope of HSN Explanatory notes and has observed that any dispute related to tariff classification can be resolved with the aid of HSN Explanatory Notes which also forms the basis for Central Excise Tariff Act, 1985 and Customs Tariff Act, 1962. Once the expression used in the Notes is in the same context as that of the Tariff Acts, it is safe to import the meaning directly from the HSN Notes and the explanation thereto.

51. The same has already been discussed in the case of ***Collector of Customs, Bombay v. Business Forms Ltd*** (supra) which relied upon ***CCE v. Wood Craft Products***[11] at Para 18 wherein it came to be held:

> "*...any dispute relating to tariff classification, a safe guide is the internationally accepted nomenclature emerging from the HSN. This being the expressly acknowledged basis of the structure of central excise tariff in the Act and the tariff classification made therein, in case of any doubt the HSN is a safe guide*

[11] **(1995) 3 SCC 454**

for ascertaining the true meaning of any expression used in the Act."

52. As it is clearly stated that HSN Notes are used to shed light on the issue of the Classification, we now deem it appropriate to peruse Chapters 27 and 29 under the HSN Explanatory Notes to that of Customs Tariff Act and Central Excise Tariff Act for better understanding and for the sake of convenience, the HSN notes of both heading in comparison with both Acts are enumerated herein below:

HSN EXPLANATORY NOTES CHAPTER 27	**CUSTOMS TARIFF ACT CHAPTER 27**	**CENTRAL EXCISE TARIFF ACT CHAPTER 27**
Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes Chapter Notes. This Chapter does not cover: (a) Separate chemically defined organic compounds, other than pure methane and propane which are to be classified in heading No. 27.11;	Mineral Fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes. Notes: This Chapter does not cover: Separately chemically defined organic compounds, other than pure methane and propane which are to be classified in heading No. 21.11 Medicaments of heading No. 30.03 or 30.04; or	Mineral Fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes. Notes: This Chapter does not cover: Separately chemically defined organic compounds, other than pure methane and propane which are to be classified in heading No. 21.11 Medicaments of Chapter 30 Mixed Unsaturated Hydrocarbons of Chapter 33 to 38

(b) Medicaments of heading No. 30.03 or 30.04; or (c) Mixed unsaturated hydrocarbons of heading No. 33.01, 33.02 or 38.05. References in heading No. 27.10 to "petroleum oils and oils obtained from bituminous minerals include not only petroleum oils and oils obtained from bituminous minerals but also similar oils, as well as those consisting mainly of mixed unsaturated hydrocarbons, obtained by any process, provided that the weight of the non-aromatic constituents exceeds that of the aromatic constituents. : : : GENERAL The Chapter covers, covers, in general, coal and other natural mineral fuels, petroleum oils and oils obtained from bituminous minerals, their distillation products, and products of a similar kind obtained by any other process. It also	Mixed Unsaturated Hydrocarbons of heading No. 33.01, 33.02 or 38.05. References in heading No. 27.10 to 'Petroleum oils and oils obtained from bituminous minerals' include not only petroleum oils and oils obtained from bituminous minerals but also similar oils, as well as those consisting mainly of unsaturated hydrocarbons, obtained by any process, provided that the weight of the non-aromatic constituents exceeds that of the aromatic constituents. 27.10 2710.00 Petroleum oils and oils obtained from bituminous minerals, other than crude; Preparations not else-where specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations	References in heading No,. 27.10 to 'Petroleum oils and oils obtained from bituminous minerals' include not only petroleum oils and oils obtained from bituminous minerals but also similar oils, as well as those consisting mainly of unsaturated hydrocarbons, obtained by any process, provided that the weight of the non-aromatic constituents exceeds that of the aromatic constituents. : : 4.'Flash Point' shall be determined in accordance with the tests prescribed in the rules made in the Petroleum Act, 1934. 27.10 Petroleum oils and oils obtained from bituminous minerals, other than crude; Preparations not else-where specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations Motor spirit, that is to say, any hydrocarbon oil

covers mineral waxes and natural bituminous substances. Goods of this Chapter may be crude or refined; however, with the exception of methane and propane, when they are separate chemically defined organic compounds in the pure or commercially pure state, they are to be classified in Chapter 29. 29. For certain of these compounds (e.g., ethane, benzene, phenol, pyridine) there are specific purity criteria indicated in Explanatory Notes 29.01. 29.07 and 29.33. Methane and propane are classified in heading 27.11, even when pure. : : 27.10- Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations.		(excluding crude mineral oil) which has its flash point below 25 °C and which either by itself or in an admixture with any other substance, is suitable for use as spark ignition engines: 2710.11 – Special Boiling point spirits (other than Benzene -toluol) with nominal boiling range 55-115°C 2710.12 - Special Boiling point spirits (other than Benzene, Benzol, Toluene and Toluol) with nominal boiling range 63-70°C 2710.13 – other special boiling spirits (other than Benzene, Benzol, Toluene and Toluol) 2710.14 – Naphtha 2710.15 – Natural Gasoline Liquid 2710.19 – other 2710.90 – other

The products covered by this heading are those which have undergone any process other than those specified in the Explanatory Note to heading 27.09. The heading includes: "Topped crudes" (where certain lighter fractions have been removed by distillation), as well as light, medium and heavy oils obtained in more or less broad fractions by the distillation or refining of crude petroleum oils or of crude oils obtained from bituminous minerals. These oils, which are more or less liquid or semi-solid, consist predominantly of non-aromatic hydrocarbons such as paraffinic, cyclanic (naphthenic). They include: (1) Petroleum spirit. (2) White spirit. (3) Kerosene. (4) Gas-oils. (5) Fuel oils. (6) Spindle-oils and lubricating oils. (7) White oils.		

The heading covers fractions as described above, even if they have been further treated to eliminate impurities (e.g., treatment with acids or alkalis, with selective solvents, with zinc chloride, with absorbent earths, etc., or by re-distillation), provided this treatment does not produce separate chemically defined compounds in a pure or commercially pure state (Chapter 29).		

HSN EXPLANATORY NOTES CHAPTER 29	**CUSTOMS TARIFF ACT CHAPTER 29**	**CENTRAL EXCISE TARIFF ACT CHAPTER 29**
ORGANIC CHEMICALS Chapter Notes. 1.- Except where the context otherwise requires, the headings of this Chapter apply only to: **(a) Separate chemically defined organic compounds, whether or**	Organic Chemicals Notes: 1. Except where the context otherwise requires, the headings of this Chapter apply only to: **(a) Separate chemically defined organic compound, whether or not containing impurities;** (b) Mixtures of two or more isomers of the same organic	Organic Chemicals Notes: 1. Except where the context otherwise requires, the headings of this Chapter apply only to: **(a) Separate chemically defined organic compound, whether or not containing impurities;** (b) Mixtures of two or more isomers of the

not containing impurities; (b) Mixtures of two or more isomers of the same organic compound (whether or not containing impurities), except mixtures of acyclic hydrocarbon isomers (other than stereoisomers), whether or not saturated (Chapter 27); : : GENERAL As a general rule, this Chapter is restricted to separate chemically defined compounds, subject to the provisions of Note I to the Chapter. (A) Chemically defined compounds (Chapter Note 1) A separate chemically defined compound is a	compound (whether or not containing impurities), except mixtures of acyclic hydrocarbon isomers, (other than stereo isomers), whether or not saturated (Chapter 27) : : : I. Hydrocarbons and their Halogenated, Sulphonated, Nitrated or Nitrosated Derivatives. 29.01 Acyclic Hydrocarbons 2901.10 – Saturated – Unsaturated 2901.21 – Ethylene 2901.22 – Propene (propylene) 2901.23 – Butene (butylene) and isomers thereof 2901.24 – Buta-1,3-diene and isomers thereof 2901.29 – Other	same organic compound (whether or not containing impurities), except mixtures of acyclic hydrocarbon isomers, (other than stereo isomers), whether or not saturated (Chapter 27) I. Hydrocarbons and their Halogenated, Sulphonated, Nitrated or Nitrosated Derivatives. 29.01 Acyclic Hydrocarbons 2901.10 – Acetylene (whether in dissolved condition or not) – Unsaturated 2901. 90 – other

single chemical compound of known structure, which does not contain other substances deliberately added during or after its manufacture (including purification). Accordingly, a product consisting of saccharin mixed with lactose, for example, to render the product suitable for use as a sweetening agent is excluded from this Chapter (see Explanatory Note to heading 29.25). A separate chemical defined compounds of this Chapter may contain impurities (Note 1 (a)). An exception to this rule is created by the wording of heading 29.40 which, with The separate chemically defined compounds of this Chapter may contain impurities regard to sugars, restricts the scope of the heading to chemically pure sugars.		

The term " impurities" applies exclusively to substances whose presence in the single chemical compound results solely and and directly from the manufacturing process (including purification). These substances may result from any of the factors involved in the process and are principally the following: (a) Unconverted starting materials. (b) Impurities present in the starting materials. (c) Reagents used in the manufacturing process (including purification). (d) By-products. It should be noted, however, that such substances are not in all cases regarded as" impurities" permitted under Note 1 (a). When such substances are		

deliberately left in the product with a view to rendering it particularly suitable for specific use rather than for general use, they are not regarded as permissible impurities. For example, a product consisting of methyl acetate with methanol deliberately left in with a view to improving its suitability as a solvent is excluded (heading 38.14). For certain compounds (e.g.. ethane, benzene, phenol, pyridine), there are specific purity criteria, indicated in Explanatory Notes to headings 29.01. 29.02, 29.07 and 29.33. This Chapter further includes, whether or not they contain impurities, mixtures of isomers of the same organic compound. This provision applies only to mixtures of compounds having the same chemical function (or functions) and which either coexist in their natural form or are		

obtained simultaneously in the course of the same synthesis. Mixtures of acyclic hydrocarbon isomers (other than stereoisomers), whether or not saturated, are, however, excluded (Chapter 27).		

53. Sub Chapter 29.01 of Chapter 29 of the HSN Explanatory Notes clearly identifying Hexane under Chapter 29 is reproduced below:

I - 29.01,

SUB-CHAPTER I
HYDROCARBONS AND THEIR HALOGENATED, SULPHONATED, NITRATED OR NITROSATED DERIVATIVES

29.01 - ACYCLIC HYDROCARBONS.
2901.10 – Saturated
- Unsaturated :
2901.21 -- Ethylene
2901.22 -- Propene (propylene)
2901.23 -- Butene (butylene) and isomers thereof
2901.24 -- Buta-1,3-diene and isoprene
2901.29 -- Other

Acyclic hydrocarbons are compounds containing only carbon and hydrogen which have no rings in their structure. They can be classified in two categories :

(A) Saturated acyclic hydrocarbons.

(B) Unsaturated acyclic hydrocarbons.

(A) SATURATED ACYCLIC HYDROCARBONS

These form a homologous series which may be represented by the general formula (C_nH_{2n+2}). They occur abundantly in nature and are the main components of petroleum oils.

The basic hydrocarbon is methane(CH_4), with one atom of carbon. Methane and also propane (C_3H_8) with three atoms of carbon are, however, classified in heading 27.11 even if they are pure.

The saturated acyclic hydrocarbons of this heading include:

(1) **Ethane** (C_2H_6) with two atoms of carbon.

To be classified in this heading, ethane must have a purity of 95 % or more by volume. Ethane of lower purity is excluded (heading 27.11).

(2) **Butanes** (C_4H_{10}), with four atoms of carbon.

(3) **Pentanes**, with five atoms of carbon.

(4) **Hexanes,** with six atoms of carbon.

(5) **Heptanes,** with seven atoms of carbon.

(6) **Octanes**, with eight atoms of carbon.

(7) **Nonanes,** with nine atoms of carbon.

(8) **Decanes,** with ten atoms of carbon.

(9) **Pentadecanes,** with fifteen atoms of carbon.

(10) **Triacontanes,** with thirty atoms of carbon.

(11) **Hexacontanes,** with sixty atoms of carbon.

These saturated hydrocarbons are all insoluble in water. At normal temperature and pressure, such hydrocarbons containing up to four atoms of carbon are gaseous; those

containing five to fifteen atoms of carbon are liquid; hydrocarbons with a greater number of carbon atoms are generally solid."

54. Notably, Chapter 27 and 29 of HSN Explanatory Notes and Chapter 27 and 29 of the Customs Tariff Act and Central Excise Tariff Act are respectively *pari materia* leaving little or no room for doubt. Chapter 29 of the HSN Notes at Sub-Heading 2901.10 contains 2 broad classifications of Acyclic Hydrocarbons - Saturated and Unsaturated. On reading further, it is categorically mentioned that Hexane is a Saturated Hydrocarbon which is acyclic (linear) in structure containing 6 atoms of Carbon with hydrogen bond. Similarly, Chapter 29 of the Customs Tariff Act mentions Acyclic Saturated Hydrocarbons as classified under Sub Heading 2901.10.

55. On plain reading, it is clear that the tenor of Chapter 27 of the HSN Explanatory Note is confined to petroleum oils and oils obtained from bituminous minerals other than crude oil. As per Kirk-Othmer Encyclopedia for Chemical Technology, Hexane or *n*-Hexane is obtained through fractional distillation of petroleum. The CESTAT vide the impugned order relied on Table 10 found in the Encyclopedia (supra) and observed that the Distillation was 68.3°C and the flash point of was below

25°C. Further, it is also mentioned that *n*-Hexane is used as a solvent in industries. The Chemical report submitted by SGS Analytical Report records Distillation Range of *n*-Hexane is at 67.2°C. Going by the chemical characteristic and mannerisms of *n*-Hexane and its physical and chemical properties, one will be compelled to accept and admit that the classification ought to be done under Chapter 27 but we are inclined to critically examine Chapter 29.

56. For a product to fall under Chapter 27, more particularly under the CETH 2710.12 as a Motor Spirit, the Supplementary notes to Chapter 27 provide that a Motor Spirit is "*any hydrocarbon oil (excluding crude mineral oil) which has its flashpoint below 25*°C *and which either by itself or in admixture with any other substance, is suitable for use as fuel in spark ignition engines*". Hence, for a product to be classified as a Motor Spirit, it ought to fulfil 3 conditions, viz, it should be a hydrocarbon oil, have a flash point of below 25°C and it ought to be shown that the product is used as a fuel in spark ignition engines either by itself or in admixture with any other substance.

57. This Court in ***CCE v. GAIL (India)***[12] held as under at Para 11 and Para 12 -

> "*It is evident from the rival contentions, that the competing entries are "other" "motor spirits"- urged by the Revenue (TI 2710.11.19) whereas the other entry is "2710 19 90 --- Other". Now, since both tariff entries fall within Chapter 2710, the chapter notes are an internal guide to their interpretation. Supplementary note (a), therefore holds the key to interpretation; it states that "motor spirit" means any hydrocarbon oil (excluding crude mineral oil) which has its flash point below 25°C and which either by itself or in admixture with any other substance, is suitable for use as fuel in spark ignition engines." Therefore, any product, to qualify under the broad rubric of "motor spirit" should be*
> *(a) a hydrocarbon oil excluding crude mineral oil;*
> *(b) which has a flash point below 25°C and*
> *(c) which by itself, or in admixture with any other substance, is suitable for use as a fuel in spark ignition engines.*
>
> ***12.*** *A plain reading of the note would reveal that all the ingredients have to be satisfied. It is not sufficient if the product is a hydrocarbon oil or that it has a flash point below 25°C; it should qualify both conditions, and also fulfil the last condition that by itself, or in admixture with any other substance should be suitable for use as fuel in spark ignition engines. It is crucial that the admixture should be with any other substance. The use of the term "other" is significant because it is meant to exclude the reference to a class of oils, i.e., hydrocarbon oil.*"

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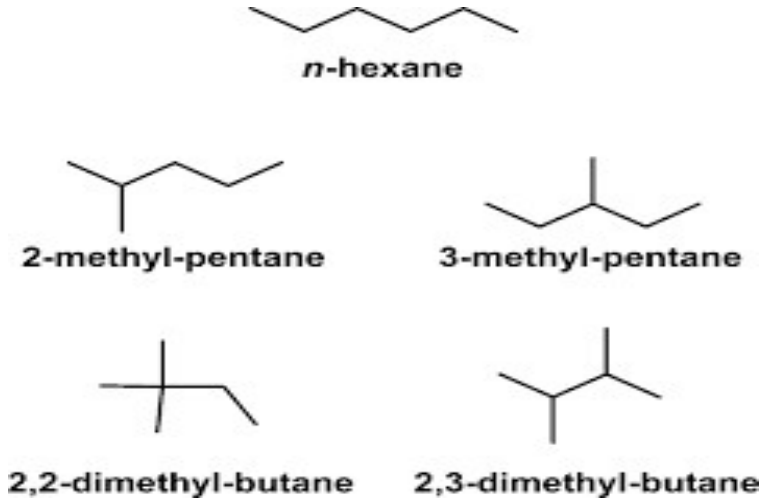
[12] **2022 SCC OnLine SC 2130**

58. On examining the conditions, we find that the Appellant-Revenue has failed to discharge its duty to prove that the imported product is a Motor Spirit. Apart from contending that the flash point of *n*-hexane is below 25°C, nothing has been placed on record to conclusively arrive at a finding that *n*-hexane imported by Respondent-Assessee was used as Motor Spirit which is suitable for use as fuel in spark ignition engines. The SGS Chemical Test report only records that the flash point of *n*-Hexane is below 25°C but as already discussed supra, it was the bounden duty of the Appellant-Revenue to provide cogent evidence to indicate the use of the imported product as a Motor Spirit. Per contra, it is the contention of the Respondent – Assessee that *n*-hexane is used as a solvent for extraction of vegetable oils, manufacture of HDPE etc. We find merit in the contentions of the Respondent – Assessee that mere emphasis on the flash point being below 25°C will not render the imported product to be placed under Chapter 27, especially in the teeth of the judgment of this Court mandating sufficient satisfaction of all the 3 conditions. Thus, the contention the Appellant –Revenue is sans cogent evidence to show that the imported substance is a Motor Spirit.

59. Chapter Note 1 to Chapter 29 under HSN Explanatory Notes defines a "*Separate Chemically Defined Compound*" as "*a substance consisting of one molecule species whose composition is defined by a constant ratio of elements and can be represented by a definitive structural diagram*." The trigger for a compound for it to be a Separate Chemical Compound arises only when the said two criteria are satisfied, i.e., its composition must be defined by a constant ratio of elements and that it can be represented by a definitive structural diagram. As already depicted above, although the chemical formula of *n*-Hexane is C6H14 and so do the isomers of *n*-Hexane have the same chemical composition, the structural diagram of *n*-Hexane makes it fully differentiable from that of its isomers. The words included under Chapter 29 specifically state '*definitive structural diagram*' meaning thereby that it is the structural formation of bonds of carbon and hydrogen that give it a unique structure making it a separate chemical compound.



60. The above picture is a structural representation of the 5 isomers of Hexane. Pertinently, all the isomers of Hexane have C6H14 as molecular composition but differ in the arrangement of the carbon and hydrogen atoms. This phenomenon is called isomerism. In simple words, isomers are compounds that have the same number of building blocks but by assembling them in different ways, many distinct compounds exhibiting distinct physical and chemical properties would emerge. As seen from the diagram reproduced above, except *n*-Hexane, the other isomers of hexane are branched. In the instant case, the imported product is *n*-Hexane which has a linear definitive structure unlike the other four isomers of Hexane thereby displaying notably different physical and chemical properties.

61. Now that we have observed that *n*-Hexane has constant ratio of elements, i.e., C6H14 and that it is also has a definitive structural diagram, it satisfies the conditions to be classified under Chapter 29 as a separately defined chemical compound.

62. However, a single chemical compound may also have several impurities. As contended by the Learned ASG for the Appellant-Revenue, the presence of impurities makes *n*-Hexane a mixture of isomer which is specifically excluded from Chapter 29 and is to be placed under Chapter 27. The term impurities under Chapter Note 1 of Chapter 29 are acquired by the compound from 4 factors during or after manufacturing process, namely, (1) unconverted starting materials, (2) impurities present in the starting materials (3) reagents used in the manufacturing process and (4) by products.

63. The imported product is obtained by way of fractional distillation of petroleum and no other substance is deliberately left behind or added to the single compound to make it suitable for specific use. As such from Table 10 of the Kirk Othmer Encyclopedia, the impurities in *n*-Hexane are other isomers of Hexane along with sulfur, chlorine etc. which are of negligent percentage and thus do not suppress the characteristic of *n*-Hexane and its presence. Thus, while it is contended by the

Appellant-Revenue that the imported product suffers from impurities and is not a pure compound, the extent of other compounds, i.e., 2,3 Dimethylbutane (0.05%), 2-Methyl Pentane (3.48%), 3-Methyl Pentane (9.38%), Methyl cyclopentane (19.3%), Cyclohexane (0.78%), Benzene (2.81%) and Dimethyl pentane (0.16%) are the unconverted starting materials, which are not deliberately added during manufacturing process nor deliberately left to render the product suitable for specific use. As per the SGS Chemical Analysis Report, the percentage of *n*-Hexane is 63.93% with other impurities standing at a lesser rate than *n*-Hexane. As rightly observed by CESTAT, the percentage of *n*-Hexane in the SGS Test Report is congruent to the recordings under Table 10 of the Kirk-Othmer Encyclopedia and the same remains undisputed.

IN RE: CLASSIFICATION OF HEXANE UNDER CHAPTER 29 AS CLARIFIED BY THE DGFT IN THE POLICY CIRCULAR

64. On perusal of the Policy Circular No. 40(RE-2003)/2002-2007 dated 14.07.2004, it is seen that clarifications were sought as to the import of Hexane covered under Chapter 29 of ITC (HS)

Classification wherein the DGFT clarified that import of Hexane is covered under Chapter 29 of the ITC (HS) Classifications of Export and Import Items, 2002-07.

65. This Court in ***Atul Commodities Private Limited v. Commissioner of Customs***[13] had held that according to Para 2.3 of the Foreign Trade Policy regarding classification of items in the ITC (HS) (2002) had observed that any doubt with respect to the classification of any item under the ITC (HS) shall be referred to the DGFT whose decision shall be final and binding. In view of the same, the binding decision of the DGFT has clearly enunciated that the import of Hexane shall fall within the contours of Chapter 29.

66. Thus, the merits of classification of Hexane under Chapter 29 of the Customs Tariff Act was already clarified by the DGFT and the same bound the authorities. The instant appeals sought by the Appellant-Revenue ought to be dismissed by placing reliance on this Policy Circular dated 14.07.2004 alone.

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[13] **(2009) 5 SCC 46**

IN RE: REVENUE INVOLVED IN CLASSIFICATION OF GOODS

67. The Indian Trade Classification (Harmonized System) ('ITC (HS)') provides identity to various products imported into the country. This country has adopted the Indian trade Classification which is also based upon and is an extended version of the internationally recognised Harmonized System Notes or the HSN Notes.

68. Much stress has been supplied on the correct classification of goods by the Customs authority. A wrong classification attracts enhanced or reduced percentage of duty; payment of hefty penalties or even wrong applications of the Circulars issued from time to time. When things stand thus, it is for the Appellant-Revenue to pay close attention to the duty imposed along with directions/circulars issued in respect of the same.

69. The percentage of duty payable under Chapter 27 of the Customs Tariff Act is higher than what is prescribed under Chapter 29. The stark difference in the duty payable under the two chapters evidently spills the reasons for such a classification. The products under Chapter 27 are minerals and in the instant matter as argued by the Appellant- Revenue, are

derivatives of petroleum products. However, a derivative taking the shape of an organic compound is placed under Chapter 29 and is severed from Chapter 27 on the specific reason that certain products exist separately after garnering unique structural representation. Thus, *n*-Hexane is rightly classifiable under Chapter 29, more particularly under CTH 2901.10 and CETH 2901.90.

70. While various factors are considered for classification a misclassification may cost heavy burden on the Revenue as well as the Assessee. No person or authority may be afflicted with a burden that will defeat the contours and objective of the provisions.

IX. CONCLUSION

71. Hence, after thorough examination of the issue involved, we conclude with the findings as mentioned under -

a) Initial burden of proof is not discharged by the Appellant-Revenue – The only contention raised by the Appellant-Revenue was that the Distillation range (boiling point) was between 63°C to 70°C and flash point was below 25°C. No oral or documentary evidence was led to

support the submission that the imported good is a Motor Spirit as under the essentials laid down under Chapter 27.

b) The application of Rule 3(a) of the General Rules of Interpretation of the HSN Notes, clearly applies to the present matter – HSN Notes guides Customs Tariff and tariff determination. In light of the same, the specific mention of Hexane under Chapter 29 of the HSN Notes clearly defines and places Hexane under Chapter 29 as it exists as a separate chemically defined compound exhibiting distinct chemical and physical properties.

c) Since the burden has not been discharged by the Revenue, on examination of Chapter 29 of the Customs Tariff, significantly, *n*-Hexane is a saturated acyclic hydrocarbon existing as a separate chemical compound in pure commercial form. Further, no other substance is deliberately added during or after the manufacturing process or deliberately left behind to classify it as a mixture with impurities.

d) Emphasis is supplied on Policy Circular dated 14.07.2004 issued by the DGFT wherein it is categorically clarified that the import of Hexane falls under Chapter 29 of the Customs Tariff Act.

e) The Appellant-Revenue cannot be unjustly enriched due to wrong classification of products which is prima facie also against the classification of the same product under HSN Notes. The Revenue implications in matters such as these are far and wide having significant impact on the Exim status of the nation.

72. Since the primary contentions and issues raised in this matter is one pertaining to the classification of *n*-Hexane, the issues are dealt accordingly and the appeal of the Appellant-Revenue stands dismissed in view of the above reasoning and the order of CESTAT dated 15.07.2011 stands affirmed.

73. Pending applications, if any, stands disposed of.

.....J.
[ARAVIND KUMAR]

.....J.
[PRASANNA B. VARALE]

NEW DELHI;
MAY 25th, 2026.