

**Commissioner of Central Excise Vs. Raj Plaster Pvt. Ltd.**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** May-26-1999

**Reported in :** (1999)(112)ELT429TriDel

**Appellant :** Commissioner of Central Excise

**Respondent :** Raj Plaster Pvt. Ltd.

**Judgement :**

1. The Revenue has filed this appeal against the Order-in-Original passed by the Collector of Central Excise, Jaipur.
2. In the impugned order the Collector of Central Excise held that the Plaster of Paris manufactured by the respondents was not classifiable under Heading 25.05 of the Central Excise Tariff (in short, CET), prior to 20-3-1990.
3. The brief facts of the case are that the respondents are engaged in the manufacture of Plaster of Paris. Show cause notice was issued to the respondents classifying the Plaster of Paris manufactured by them under Heading 25.05 of the CET. After adjudication the proceeding under the show cause notice was dropped by the Collector.
4. Learned DR appearing on behalf of the appellant-Collector reiterated the grounds of appeal.
5. Heard both sides and perused the appeal papers. In this case the issue is whether the Plaster of Paris manufactured by the respondents was classifiable

under Heading 25.05 of the CET prior to 20-3-1990. In the impugned order, the manufacturing process as noticed by the Collector is that first the raw gypsum is crushed and then it is calcined in rotary drum and thereafter it is pulverised, recalcined and then cooled. The Collector has in the impugned order, after taking into consideration Chapter Note 2 of Chapter 25, held that the product in question is not classifiable under Heading 25.05. We find that the issue is covered by the decision of the Tribunal in the case of Madhusudan Ceramics v. C.C.E. - 1991 (53) E.L.T. 90. In this case the Tribunal held as under: Heading Nos. 25.01, 25.03 and 25.05 cover only products which have been washed (even with chemical substances, eliminating the impurities without changing the structure of the product) crushed, ground, powdered, levigated, sifted, screened or concentrated by floatation, magnetic separation or other mechanical or physical processes (except crystallisation) but not products that have been roasted, calcined or obtained by mixing.-----Heading Sub-

heading	Description	of	goods	Rate	ofNo.	No.
duty-----				25.05	2505.00	Mineral

substances, not 12% elsewhere specified Thus by reading the Note 2, it is clear that it does not cover products that have been roasted, calcined or obtained by mixing.

Chapter 25.05 includes plasters with a basis of calcium sulphate but such plasters which are obtained by roasting, calcination or obtained by mixing are excluded by the Note 2. In this case, admittedly, the Plaster of Paris is obtained by a process of roasting and by calcination. Hence the impugned product gets excluded from the Chapter 25.05 by virtue of this Note 2..."

6. In view of the above decision of the Tribunal, we find no infirmity in the impugned order. The appeal is rejected.

7. The cross objection filed by the respondent also stands disposed of in the same terms.