Circular No.31/ 2011-Customs

F.No.521/64/2010-STO (TU)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

229A, North Block, New Delhi-110001
Dated 26th, July, 2011

To,
All Chief Commissioners of Customs / Customs (Prev.).
All Chief Commissioners of Customs & Central Excise.
All Commissioners of Customs / Customs (Prev.).
All Commissioners of Customs & Central Excise.
All Director Generals under CBEC.

Subject: - Classification of Palm Stearin -Reg.

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Sir / Madam,

Attention is invited to Board Circular No. 81/2002-Customs dated 03.12 2002, which clarifies that "Crude Palm Stearin" should be assessed keeping in view the chemical examination of the product whether they are glycerides (ester) of fatty acid or a mixture of fatty acids. Accordingly, the good merits classification or assessment either under CTH 1511(in case of glycerides of fatty acids) or CTH 3823 (in case of a mixture of fatty acids), as the case may be.

2. Hon'ble Supreme Court of India in Civil Appeal No. 6979-6982 of 2009 in case of C.C.E.C. & S.T., Visakhapatnam Vs. JOCIL India, vide Order dated 15.12.2010 has held that 'Palm Stearin' is specifically mentioned under CTH 3823 11 and is further differentiated as "Crude", "RBD" in sub-heading 3823 11 11 and 3823 11 12 respectively. The Explanatory Notes are categorical in affirming the accepted practice that Rule 3(b) of 'General Rules for the Interpretation' shall be used only if classification under Rule 3(a) fails. The Hon'ble Court has opined that the issue of the essential character of the subject matter in question may be resorted to only if identification under Rule 3(a) is impossible.

3. Accordingly, it is clarified that the goods declared as "Crude Palm Stearin" shall be assessed under CTH 3823 11 11 of Customs Tariff Act, 1975. All pending cases should be finalized accordingly.

4. The Board Circular No. 81/2002-Customs dated 03.12.2002 stands withdrawn.

5. Difficulty, if any, faced in implementation may be brought to the notice of the Board.

Yours faithfully,

(Alok Agarwal)
OSD (Customs)

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