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Magicut Tools Ltd. Vs. Commissioner of C. Ex.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Nov-13-1996

Reported in : (1998)(102)ELT422Tri(Mum.)bai

Appellant : Magicut Tools Ltd.

Respondent : Commissioner of C. Ex.

Judgement :

1. The issue in this appeal is, whether 'too bit blanks' manufactured by the appellant are classifiable under Heading 8202.10 as tools. In the order impugned in the appeal, it has been held that they are so classifiable.

2. It is the contention of the appellant that in form in which they are cleared, the goods have not acquired the essential characteristics of tools and substantial processing such as grinding, edge-sharpening, grooving etc. has to be carried out by the purchaser of the goods before they can be used as tools. The appellant, therefore, disputes the applicability of Rule 2(a) of Rules of Interpretation of the Tariff to this product.

3. The departmental representative says that the goods have acquired the essential characteristics of tools and hence the applicability of Rule 2(a) of Rules of Interpretation has been rightly upheld by the Commissioner (Appeals).

4. The Commissioner (Appeals) agrees that the goods are not ready for use but says that they have acquired the essential characteristics of the complete or

finished article. From the statement of the appellant it appears that the blanks are made by cutting of round and square bars into different sizes and subjecting them to heat treatment. From this, it would be clear that the goods had not even acquired the shape of the finished product, and it cannot be said that they could be fashioned into a particular tool or tool bit and not into any other article. The other reason advanced by the Commissioner (Appeals) that tools cannot be classifiable elsewhere, proceeds on the assumption that the goods are tools. The conclusion in the order is not sustainable.

5. We, therefore, set aside the order impugned in the appeal. The Asstt. Commissioner may determine the classification afresh, according to law.

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