Spic Ltd. Vs. Collector of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-03-1997

Reported in : (1997)(92)ELT114TriDel

Appellant : Spic Ltd.

Respondent : Collector of Customs

Judgement :

1. The appellants imported several machines including handling machinery and parts towards setting up of a Gypsum processing plant.

These goods were assessed on merits under different tariff headings.

Subsequently the importers filed a refund claim on the plea that the entire imports were capable of being assessed under Heading 84.59(2) as machines and mechanical appliances designed for the production of a commodity. The lower authorities having rejected this claim, the present appeal is filed before us.

2. The appellants were not present today even when due notice had been served on them. We, therefore, proceeded to decide the case on merits after hearing Shri M. Haja Mohideen, ld. JDR for the Revenue.

3. Chapter 84 of the Customs Tariff covers machinery, mechanical appliances etc. Heading 84.59 at the material time covered such machines and appliances which had individual functions and could not fall within any other heading of that chapter. Part (2) of the same heading covered machines designed for production of a

commodity as well as certain other specified machinery. It is the claim of the appellants that the machinery imported by them would go into a plant which plant is designed to produce a commodity. This logic of the appellants is faulty as the tariff heading speaks of machines and not a group of machines each performing an individual function, together making a plant. The appellants have relied upon Section Note 3 to Section XVI of the Tariff which states that composite machines should be classified under that tariff entry which covers the machines performing the principal function of such composite machinery. Here also the logic suffers from the same defect. The description on the bill of entry shows that some of the items are individually named in the tariff by nomenclature and some other articles such exhaust fans are articles of general use. These machines taken together do not answer the description under Heading 84.59(2). We, therefore, find no merit in this appeal and dismiss the same.