

Collr. of C. Ex. Vs. New Great Eastern Spg. and Wvg. Co.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-13-1997

Reported in : (1997)(94)ELT140TriDel

Appellant : Collr. of C. Ex.

Respondent : New Great Eastern Spg. and Wvg. Co.

Judgement :

1. In this appeal filed by the Revenue, the matter relates to the applicability of exemption Notification No. 64/86-C.E., dated 10-2-1986, as amended by Notification No. 276/86-C.E., dated 24-4-1986.

The goods have been described in the order-in-original as under :- There is a composite mill and they are inter alia engaged in printing of Cotton Fabrics on Rotary printing machine with the help of Nickel Screen Cylinders/Rollers. To undergo the said process they purchase perforated Nickel Screen Cylinders from the original manufacturers on payment of Central Excise Duty. Subsequently a special type of photosensitive emulsion is applied on said Cylinders/Rollers, thereby a separate photographed transparent polyester film bearing required print/design is clearly placed around the lacquered (emulsion coated) Nickel Screen Cylinder/Rolls.

Then by means of short wave source of light the design as per polyester film is given the effect of polymerisation of the synthetic materials where the lacqures (hard varnish/emulsion) has been exposed to light, In short as per print/design of

polyester film which is placed around the Lacquered Nickel Screen Cylinder/Roller the unwanted portion of emulsion (as per required design) is removed by light exposure and the perforations are made open again through which required colour passes. If the said screen is degreased the cylinder requires its original state as perforated Nickel Screen Cylinder/Roller.

The Collector of Central Excise (Appeals) relying upon the Trade Notice No. 25/87 dated 15-4-1987 issued by the Collector of Central Excise, Bombay, had held that there is no dispute that the goods were classifiable under Heading No. 84.42 and that in his view cylinders were covered by the exemption Notification No. 64/86-CE, dated 10-2-1986, as amended by Notification No. 276/86-CE, dated 24-4-1986.

In appeal, the revenue had pleaded that while the goods were correctly classifiable under Heading No. 84.42 of the Tariff, they were not eligible for the exemption under Notification No. 64/86-CE dated 10-2-1986, as amended by Notification No. 276/86-CE, dated 24-4-1986.

2. We have heard Shri A.K. Agarwal, SDR, for the appellants/Revenue, and Shri L.P. Dhir, Advocate, for the respondents M/s. New Great Eastern Spg. & Wvg. Co. Ltd. 3. The goods have been described by the adjudicating authority in the relevant extract from the order-in-original, as already given above. We find that in the Trade Notice No. 25/87, dated 15-4-1987, as issued by the office of the Collector of Central Excise, Bombay-I, it has been considered as under: "Plan Nickel cylinders are classifiable under Heading 75.01. Nickel cylinders which have been prepared for printing purposes (i.e.

planed, grained or polished) even though not engraved or impressed are classifiable under heading 84.42 and Nickel cylinders which have been subjected to the process of exposing/photograde and fitting of rings are classifiable under Heading 84.42 of the Schedule to the Central Excise Tariff Act, 1985." We find that the Collector of Central Excise (Appeals) has relied upon this trade notice while coming to the decision that the goods in question were eligible for the exemption. We find that in the grounds of appeals, there is no mention of this trade notice.

4. As the Collector of Central Excise (Appeals) had relied upon the trade notice and there is nothing in the Revenue's appeal that the trade notice was not applicable, we find no ground to interfere with the view taken by the learned Collector of Central Excise (Appeals). As a result, the appeal is rejected. The Cross-objections filed by the respondents are also disposed of in the above terms.

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