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Collector of Central Excise Vs. Plastic Products Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-03-1997

Reported in : (2000)(115)ELT841TriDel

Appellant : Collector of Central Excise

Respondent : Plastic Products Ltd.

Judgement :

1. The short point for our consideration in this appeal is whether item "bobbins", manufactured by the respondents, is classifiable as articles of plastic, as claimed by the party of item to be classifiable under T.I. 68 of the erstwhile Tariff as per the Department.

2. When the case was posted for hearing, none appeared on behalf of the respondents in spite of the fact that notice of hearing has been issued to them. On going through the issue involved in this case, we are of the view that the matter can be disposed of as the matter is in a narrow compass.

3. It was claimed by the party that item, in question, containing plastic and aluminium, but since plastic dominates in weight as well as in value, the bobbins should be treated as articles of plastic and classification is to be approved after grant of exemption in terms of Notification 182/82. The Assistant Collector, who initiated the proceedings, observed that the bobbins are covered as an article of plastic. They are very special type of articles having a different nomanclature and are used for specified specialised purpose. He also observed that hollow tube is

an essential raw material for Robbin and it is made of aluminium and, accordingly, he held that this item is not an article of plastic.

4. On an appeal filed by the assessee, Collector accepted the contention of the party holding that since percentage of plastic is more in the composition of bobbins, it is to be classified as articles of plastic. In this context, Shri Mohideen, ld. DR drew our attention to the judgment of the Supreme Court in the case of Texplas (India) Put. Ltd. v. C.C.E., reported in 1996 (84) E.L.T. 18 (S.C.) where it has been observed that articles made of plastic meaning article made wholly of commodity commercially known as plastics and not articles made from plastic along with other materials. They have also decided the issue with reference to the very Notification 182/82-C.E., dated 11-5-1982. In the instant case, admittedly, "bobbins" is made of plastic and aluminium and not it is exclusively made of plastic. In the facts and circumstances of the case and following the ratio of the decision of the Apex Court, referred to above, we accept the contention of the Department and in the result, we set aside the impugned order and allow the appeal.

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