

Ruby Mills Ltd. Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jun-03-1997

Reported in : (1998)(97)ELT295Tri(Mum.)bai

Appellant : Ruby Mills Ltd.

Respondent : Commissioner of Central Excise

Advocate for Pet/Ap. : Shri. Prakash Shah

Judgement :

1. The appellants herein manufacture among others blended yarn. They filed a classification list in respect of cellulosic spun containing the following blends Polyester 42%, Viscose 38% Silk 20% and claimed classification under Tariff Item 18-III(ii) which covers cellulosic spun yarn containing man-made fibres of non-cellulosic origin, predominate in weight. The present appeal is against this decision on classification which has been upheld by the Commissioner of Central Excise (Appeals) in the impugned order.

2. Shri Prakash Shah the Id. Counsel for the appellants submits that the matter of classification of such yarn is no more res Integra. It has been settled by the Supreme Court decision in the case of Collector of Central Excise v. Bowreah Cotton Mills Co. Ltd. -1997 (92) E.L.T. 8 (S.C.).

3. We have heard Shri S.V. Singh the Id. DR. On perusal of the Supreme Court decision in that case also classification of similar blended yarn was considered,

and the Supreme Court has upheld the Tribunal decision that such yarn would be correctly classifiable under residuary Tariff Item 68 covering the goods not elsewhere specified in the Tariff and will not fall under Item 18-III(ii) or under Tariff Item 18-E. The ratio of the above decision is applicable to the facts of the present case and we also note that it was an alternate plea in this case by the appellants before the lower authority that the blended yarn would in the alternative be classifiable under Item 68 CET. Applying the ratio of the Supreme Court decision the impugned order is set aside and the appeal is disposed of, holding that the blended yarn be classified under Item 68 CET. Consequential relief if any according to law.

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