

Commissioner of Central Excise Vs. I.C.P. (India) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-24-1997

Reported in : (1997)(94)ELT133TriDel

Appellant : Commissioner of Central Excise

Respondent : i.C.P. (India) Ltd.

Judgement :

1. In the classification list filed by the assessee the classification of "Synthetic Resin Bonded Glass Fibre Sheets" was claimed under Heading 8547.00. This was duly approved by the Assistant Collector.

Later on in view of the Board's instructions F. No. 114/18/86-CX. 3, dated 26-5-1986 the correct classification was under Heading 7014.00.

The Assistant Collector therefore, filed an application before the Collector (Appeals) for rectification under Section 35E(2) of the Central Excises and Salt Act, 1944. The Collector observed that in terms of Note No. 1(C) of Chapter 70, the Chapter did not cover "Electrical Insulators or fittings or insulating materials" and, therefore, stood excluded from the coverage of Chapter 70. In this appeal filed by the Revenue it has been claimed that there was a misprint in this Chapter Note whereby the correct word between "fittings" and "insulating material" should have been "of" instead of "or". It is claimed that the Collector continued to read the misprinted Chapter Note and thus arrived at the wrong conclusion.

2. We have heard Shri G.D. Sharma, learned Departmental Representative for the Revenue. The respondents were not present in spite notice of hearing have been sent.

3. We have carefully considered the submissions and have perused the concerned Chapter Note. As per the corrected note it is not insulating material but fittings of insulating material that would stand excluded from Chapter 70. It appeared that the Collector did not take into consideration the clarification of the mistake given in the cited instructions. We, therefore, allow this appeal and set aside the Collector's order.

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