indag Rubber Ltd. Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-18-1997

Reported in : (1997)(96)ELT559TriDel

Appellant : indag Rubber Ltd.

Respondent : Collector of Central Excise

Judgement :

1. This is an appeal against the order of Collector (Appeals), New Delhi dated 14-8-1991.

2. Both the sides submitted that in this case, the issue involved namely the classification of a product in the nature of a prepared adhesive consisting of a mixture of rubber, organic solvents, etc.

under Heading 35.06 has already been settled by the Tribunal's order in the case of Elgi Polytex Ltd., Coimbatore v. Collector of Central Excise, Coimbatore reported in 1988 (34) E.L.T. 404 (Tribunal) and the product in this case also being similar, this case may also be disposed of similarly.

3. We find that the appellants have described their product called 'Universal Spray Compound' and its composition as follows:- Synaperene is a type of synthetic rubber. Zinc Oxide is an activator and insoluble sulphur are vulcanizing agent. CP-100 and Resorcinal formaldehyde (which are resins) act as tacifiers.

4. They have also described the process of manufacture and use to the Department as follows :- "The necessary ingredients like natural rubber, synaperene, zinc oxide, CP-100, Resorcinal Formaldehyde, Carbon Black N-351, Elasto 710, Insoluble Sulphur, Cyrez Resin and other chemicals are first mixed together in the mixing mill and sheeted out as a master batch, from the intermix. These are then fed into the churner and dissolved in a solvent. This process of dissolving takes around 6 hours." 5. The appellants also filed an affidavit by their Manager - Technical Services stating that the Universal Spray Compound has no other use than as an adhesive in the process of retreading. Subsequently, samples of the product were drawn and sent to the Chemical Examiner, New Delhi and the Chemical Examiner's report dated 3-2-1988 while giving the composition of the product clearly stated that the Item finds application as an adhesive.Elgi Polytex Ltd., Coimbatore v.Collector of Central Excise, Coimbatore reported in 1988 (34) E.L.T.404 (Tribunal), it has been observed that "Explanatory Notes under Heading No. 35.06 of the Brussels Nomenclature show that the heading covers, inter alia, adhesives consisting of a mixture of rubber, organic solvent, fillers vulcanising agents and resins. The notes under Heading No. 40.05 (corresponding to Heading No. 40.05 of the Central Excise Tariff Schedule) show that prepared glues and other prepared adhesives consisting of rubber solutions or dispersions with added fillers, vulcanising agents and resins, and rubber solutions and dispersions put up for retail sale as glues or adhesives, not exceeding a net weight of 1 kg (Heading 35.06) are excluded from the said Heading 40.05. The clause regarding rubber solutions and dispersions put up for retail sale, not exceeding a net weight of 1 kg, has relevance only to the Brussels Nomenclature because its Heading 35.06 (reproduced earlier) has a specific description to that effect. Whereas, as may be seen from Heading 35.06 of the CET, there is no corresponding description. The subject product, as seen from its composition, contains rubber in solution in an organic solvent, sulphur (a vulcanising agent), fillers and resin. Its use is admittedly as an adhesive in retreading of tyres. There can, therefore, be no doubt that the correct classification of the product is as a prepared adhesive or glue in Chapter 35 of the Central Excise Tariff Schedule." 8. Since the product in question is similar to the one covered by the above decision, we consider that the submissions made before us are correct. The appeal is,

therefore, accepted following the Tribunal's order in the aforesaid case of Elgi Polytex Ltd. as already announced in the open Court.