Fgp Ltd. Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-05-1997

Reported in : (2000)(117)ELT599TriDel

Appellant : Fgp Ltd.

Respondent : Collector of Central Excise

Judgement :
1. When the case was called, none appeared on behalf of the appellants.

Vide their communication dated 22-10-1997, the appellants made a request to decide the appeal on merits.

2. The appellants filed this appeal against the order-in-appeal dated 6-9-1990 passed by the Collector, Central Excise (Appeals), Bombay. In the impugned order, the Collector, Central Excise (Appeals) held that the glass fibre mentioned at serial No. 10 of Notification No.52/86-C.E., dated 10-2-1986 will cover only woven fabrics and not non-woven fabrics. The appellants' product being non-woven fabrics would fall under serial No. 11 of the said Table.

4. In this case, the appellants are claiming the benefit of Notification No. 52/86-C.E., dated 10-2-1986. In the impugned order, the Collector, Central Excise (Appeals) held that glass fabrics mentioned in serial No.10 of the Notification will cover only woven fabrics and not non-woven fabrics. Hence they are not entitled for the benefit of Serial No. 10 of the Notification No. 52/86-C.E., dated 10-2-1986.

5. We find that the issue is coverd by the decision of the Tribunal in the case of the appellants' own case in Appeal No. E/2993/90-D, the Tribunal vide Final Order No. E/309/91-D, dated 4-7-1991 held that since serial No. 10 of the Notification No. 52/86-C.E. does not differentiate between woven and non-woven fabrics, the exemption granted under the said notification will be applicable equally to non-woven fabrics also.

6. The appeal filed by the Revenue against this order was dismissed by the Hon'ble Supreme Court as reported in 1997 (92) E.L.T. A-141.

Respectfully following the ratio of the decision of the Tribunal, the impugned order is set aside and the appeal is allowed.

7. Consequential relief, if any will be subject to the provisions of unjust enrichment as interpreted by the Hon'le Supreme Court in the case of Mafatlal Industries Ltd. v. U.O.I, reported in 1997 (89) E.L.T.