SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Minwool Insulation Ltd. Vs. Collector of C. Ex.

Minwool Insulation Ltd. Vs. Collector of C. Ex.

SooperKanoon Citation : sooperkanoon.com/12114

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-12-1997

Reported in : (1998)(97)ELT372TriDel

Appellant : Minwool Insulation Ltd.

Respondent : Collector of C. Ex.

Judgement :

1. The facts leading to the present appeal are that the appellants are engaged in the manufacture of slag wool. They also manufacture rock wool, up to 20-2-1989, the Assessee cleared slag wool and rock wool as two different products. On 21-2-1989, the appellants filed a classification list classifying their products as mineral fibre i.e.

slag wool known as rock wool, claiming exemption from duty under Notification No. 50/86-C.E., dated 10-2-1986. The Department returned the Classification List to the Assessee asking them to indicate the correct description of the goods. The Appellants re-submitted these classification lists requesting the Asstt. Collector to keep them pending till they receive orders from the Collector, Central Excise (Appeals). These classification lists were approved provisionally, asking the Assessee to show cause as to why the products slag wool as described by them should not be classified separately under Chapter Sub-heading 6803.00, attracting duty at 15% ad valorem and rock wool under Sub-heading 6803.00 attracting Nil rate of duty under Notification No. 50/86. In reply to the show cause notice, the assessee submitted that the product manufactured by them is mineral wools, which is used for insulation purposes; that their products are the same in technical and common parlance; that raw material consumption, end product and uses are identical; that any exemption granted to rock wool is equally applicable to slag wool. After careful consideration of the submissions, the Assistant Collector held that slag wool will be classifiable under Chapter sub-heading 68.00 and will be chargeable to duty of 15% ad valorem. In appeal, the ld. Collector (Appeals) held : "There is no room for any intendment. There is no equity about a tax.

There is no presumption as to a tax. Nothing is to be read in, nothing is to be implied. One can look fairly at the language used." The ld.Collector (Appls) further held that "In view of the above clear position in law, the appeal is rejected". Hence the appeal before us.

2. Shri R. Swaminathan, the ld. Consultant appearing for the appellants, submitted that in McGraw Hill Dictionary of Scientific and Technical Terms (4th Edition), mineral wool has been defined as "a fibrous substance, technically a glass or a selected combination of these ingredients ... etc". He submitted that rock wool has been defined as 'see mineral wool'; that slag wool has been defined as 'see mineral wool'. The ld. Consultant submits that this clearly shows that rock wool, slag wool and mineral wool are three synonymous terms.

Referring to the meaning of the terms in Chamber Science & Technology Dictionary (by Prof. Peter M.B. Walker, CBE, FRSE), mineral wool has been defined as 'see rock wool'; that rock wool has been defined as 'Fibrous insulation material made by blowing steam through molten slag.

Also called mineral wool, slag wool'; that slag wool has been defined as 'see rock wool'. He submitted that thus, meaning of the three terms clearly indicates that they are synonymous and represent the same product. The ld. Consultant also referred to the meaning of these terms in the Fourth Enlarged Edition of Concise Chemical and Technical Dictionary, edited by H. Bennett, wherein mineral wool (slag wool) has been defined as 'fibrous material made from the action of a jet of steam on molten slag used in insulating'. Rock wool has been defined as 'expanded slag fibrous mineral' and slag wool has been defined as 'mineral wool'. He submitted that the dictionary meaning from the above shows that mineral fibre, rock wool and slag wool are synonymous terms.

The ld. Consultant also referred to exemption Notification No.50/86-C.E., dated 10-2-1986 which exempted under Sl. No. 1 Rock Wool.

The ld. Consultant, therefore, submitted that rock wool, slag wool are mineral fibres, are synonymous, are known in the market as synonymous product. He, therefore, prayed that the benefit of exemption Notification No. 50/86-C.E., dated 10-2-1986 may be given to slag wool manufactured by the appellants.

3. Countering the arguments of the ld. Consultant, Shri Satnam Singh, the ld. SDR appearing for the respondent Commissioner, submitted that the entry in the Schedule under Heading 68.03 reads as under : 4. The ld. DR submitted that exemption under Notification No.50/86-C.E., dated 10-2-1986 is available only to rock wool. He submitted that exemption Notification is to be construed strictly. He submitted that the tariff entry clearly indicates that slag wool and rock wool are two distinct products. He submits that since only rock wool is exempted, the question of extending the benefit to Slag wool does not arise. He, therefore, prays that the appeal may be rejected.

5. Heard the submissions of both sides. We have perused the technical literature and dictionary meaning cited and relied upon by the Appellant. We note that for technical and chemical purposes, products may be similar or even identical. We note that the tariff is built on the basis of the terminology used in common parlance. A reading of the tariff shows that slag wool and rock wool are two distinct different terms. We also note that the exemption has been granted only to rock wool. We also note that an exemption is to be construed strictly. A strict reading of the exemption Notification clearly illustrates that the benefit will be admissible only to rock wool and to no other material. The intention of the Government is clear inasmuch as it has selected only rock wool for the purpose of exemption and not slag wool or mineral wools/fibres inasmuch as the tariff was very clear and distinct. Looking to the facts of the present case, we find that there is force in the argument of the ld. DR. We, therefore, hold that exemption under Notification No. 50/86-C.E., dated 10-2-1986 will be restricted to Rock wool only. In the result, the Appeal is rejected.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com