

Wolrem Pvt. Ltd. Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-24-1997

Reported in : (1998)(97)ELT452TriDel

Appellant : Wolrem Pvt. Ltd.

Respondent : Collector of Central Excise

Judgement :

1. The appellants in this case in their classification list claimed the benefit of Notification No. 23/55-C.E., dated 29-4-1955 (sic) as amended, for the following products : The benefit of the notification having been denied by the lower authorities, the present appeal is before us.

2. Shri K.K. Anand, learned Advocate appearing for the appellants, clarified that the appeal was limited to the first two products only.

It was his claim that the concerned notification exempts 'chalk'. It was his claim that the first product namely calcite is equitable to chalk. In this connection, he relies upon the definitions in the Condensed Chemical Dictionary, 8th Edition, by G.G. Hawley. His further contention is that the notification exempts silica. The second product Wollastonite being a natural silicate falls within the meaning of the word Silica. Since these two products named in the classification list are akin to the two products specified in the notification, it is his claim that the benefit would accrue. It is his plea that even if there are minor differences, since all the goods are used for the same purpose namely as extenders and fillers, a liberal

interpretation of the terms is warranted.

3. Shri Madan, learned DR supporting the lower authorities' orders, claims that in terms of the Supreme Court judgment in the case of Rajasthan Spinning & Weaving Mills reported in 1995 (77) E.L.T. 474, the Notification has to be construed strictly and no liberal interpretation can be made thereof. He also states that in describing the admissible categories, the notification uses the word 'namely' and therefore, the scope cannot be extended beyond the named categories.

4. We have carefully considered the rival submissions and have also seen the definitions given in the book relied upon by Shri Anand.

'Chalk' has been described as 'a natural calcium carbonate composed of the calcareous remains of minute marine organisms. Decomposed by acids and heat'.

'The most common form of natural calcium carbonate. Dogtooth spar, Iceland spar, nailhead spar and satin spar are varieties of calcite.

It has the essential ingredient of limestone, marble and chalk.' 5. These two definitions spell out the difference between these two categories of Calcium carbonate. Whereas the book does not describe the origin of calcite, the origin of chalk is definitely shown to be calcareous remains of minute marine organisms. The definitions make it clear that the term chalk would cover a version of calcide but that these two terms cannot be taken to be synonymous. In the same manner, silica is defined in the Dictionary of Science by Unanov Chapman and Issacs, to be 'Silicon Dioxide SiO₂.

In the Hawley's Dictionary, Wollastonite has been defined as 'a natural Calcium Silicate with the formula CaSiO₃. The two products are chemically different and therefore, the claim that they are equitable cannot sustain.

6. We thus find that the products claimed are different from the products named in the exemption Notification. The use of the wording 'namely' shows that the notification is exclusively meant for the products specifically mentioned therein. In the situation, the plea for liberal construction of the notification has no force.

7. On consideration of the composition of the products, we find no substance in the submissions made in the Appeal. We uphold the impugned order and dismiss the appeal.

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