

Commissioner of Central Excise Vs. Ester Industries Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-10-1998

Reported in : (1998)(100)ELT148TriDel

Appellant : Commissioner of Central Excise

Respondent : Ester Industries Ltd.

Judgement :

1. The amount of credit involved in the above appeal filed by the Revenue against the order of the Commissioner (Appeals) is Rs. 10,051.65. The Department is aggrieved by the extension of credit on an item called D.M.S. which according to the Revenue was not covered by the assessee's declaration under Rule 57H in 1987 or 57G declaration filed in 1992. According to the learned DR, the declaration dated 24-11-1987 covered the item "5 Sodium Sulfo Dimethyl Isophthalate" falling under Heading 2917.00 which is a different chemical from D.M.S. as D.M.S. contains sulfo group while the product declared by the respondents on 24-11-1987 does not contain sulfo group. The Counsel for the respondents however, submits that they went by the description given in the Bill of Entry viz. D.M.S. (5 Sodium Sulfo Dimethyl Isophthalate).

2. Learned DR has not been able to explain as to how the item on which credit has been extended, i.e. D.M.S., is different from the item declared in 1987. The Department has not been able to substantiate its case that D.M.S. contains sulfo group in contrast to the item declared by the respondents. For this reason and noting that the amount involved is very small, I see no reason to admit the appeal

and accordingly reject the same.

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