

Versatile Enterprises Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-24-1998

Reported in : (1998)(102)ELT148TriDel

Appellant : Versatile Enterprises

Respondent : Collector of Central Excise

Judgement :

1. The appellants M/s. Versatile Enterprises had challenged the Order-in-Appeal dated 26-9-1991 passed by the Collector, Central Excise (Appeals), Chandigarh. The matter relates to the classification of the laminated fabrics on the base of man-made knitted fabrics. The Collector, Central Excise (Appeals), Chandigarh had confirmed the view taken by the Assistant Collector, Central Excise, Ludhiana that the laminated fabrics with base of man-made knitted fabrics were correctly classifiable under sub-heading No. 5903.29 of the Central Excise Tariff. The appellants had pleaded for classification of the said fabrics under sub-heading No. 5903.99 of the said Tariff.

3. On behalf of the respondent Revenue, Shri R.S. Sangia, JDR explained the construction of the fabrics in dispute and referred to the relevant Tariff entry with the plea that the view taken by the Appellate Authority was correct.

4. We have carefully considered the matter. There is no dispute that the base fabrics on which laminated fabrics in dispute had been prepared was the man-made knitted fabrics. Under Chapter 59 of the Central Excise Tariff, impregnated,

coated, covered or laminated textile fabrics were included. Under Heading No. 59.03, textile fabrics impregnated, coated, covered or laminated with plastics, other than those of Heading No. 59.02 were classifiable. There is no dispute that the goods in dispute were covered by Heading No. 59.03 of the Tariff.

This heading had been further sub-divided into three with reference to the base fabrics on which the lamination etc. had been done.

Sub-heading 5903.11 and 5903.19 included such fabrics when the base fabric was of cotton. Sub-heading 5903.21 and 5903.29 referred to the base fabrics of man-made textile materials. Sub-heading 5903.91 and 5903.99 was residuary and covered 'other'.

5. The appellants had contended that their base fabric was man-made knitted fabric which was separately classifiable under Chapter 60 of the Tariff and that the fabrics of man-made textile materials would be the fabric which was only covered by Chapters 54 and 55 of the Tariff.

Chapter 54 covers man-made filament and Chapter 55 covers man-made staple fibres. We find that the expression 'man-made textile material' was wide. Chapter 60 of the Tariff covered knitted or crocheted fabrics. It was provided in Note 1(c) under that Chapter 60 that the knitted crocheted fabrics, impregnated, coated, covered or laminated of Chapter 59 were not covered by Chapter 60. Between sub-heading 5902.29 and 5903.99, there was no distinction with reference to the knitted fabrics and the expression 'base fabric man-made textile material' would cover the base fabrics man-made knitted fabrics. *Porritts and Spencer (Asia) Ltd. v. State of Haryana -1978 (42) STC 433 (S.C.)*, the Supreme Court had observed that the expression 'textile' was of wide connotation and that yarn whether cotton, silk, woollen, rayon or of any other description or made out of any other material is woven into a fabric, what comes into being is a 'textile' and it is known as such. The Apex Court had observed that the method of weaving adopted may be the warp and woof pattern, as is generally the case in most of the textiles, or it may be any other process or technique. What was necessary was no more than weaving of yarn and weaving would mean binding or putting together by some process so as to form a fabric.

7. In the present case, admittedly the base fabric was a man-made fabric. The base fabric so man-made even if knitted will be covered by the expression 'man-made textile material'.

8. Sub-heading No. 5903.99 is residuary and the goods will be classifiable therein only when they were not so classified under the specific entry which in the present case is 5903.29.

9. Thus on merits, we consider that the view taken by the Id.Collector, Central Excise (Appeals), Chandigarh does not suffer from any infirmity.

10. As regards the limitation, we find that the demand had been raised within period of normal limitation. Proper show cause notice had been issued by the Supdt, Central Excise, Ludhiana and they were required to show cause to the Assistant Collector, Central Excise, Ludhiana who after observing the principles of natural justice had decided the classification. He had also observed that the assessee had misdeclared the classification of the fabrics as well as the exact nature of the textile material present in the base fabrics. He had further observed that the exact description of the fabrics had been suppressed.

In view of the above discussions, we do not find any merit in this appeal and the same is rejected.

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