

Niraj Cement Structurals Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-25-1998

Reported in : (1998)(101)ELT284TriDel

Appellant : Niraj Cement Structurals

Respondent : Collector of Central Excise

Judgement :

1. In this appeal filed by M/s. Niraj Cement Structurals, the matter relates to the classification of the products which had been referred to by the appellants in the classification list as RCC Tiles. The appellants had classified their products under sub-heading 6807.00 of the Central Excise Tariff and claimed the benefit of exemption Notification No. 59/90-C.E., dated 20-3-1990. The Collector of Central Excise (Appeals), Bombay, while confirming the classification under sub-heading No. 6807.00 of the Tariff denied the benefit of Notification No. 59/90-C.E. He observed that the product in question was a floor covering in the form of tiles which was specifically excluded from the description under Serial No. 4 of the table annexed to Notification No. 59/90-C.E.2. Shri V.C. Chopra, Partner, submitted that the goods manufactured by them and which were in dispute were to be used for laying the cables and for that purpose they had been given re-enforcement by steel rods.

It was his plea that such re-enforcement was not necessary for floor coverings. As the goods were not floor coverings, it was his submission that even when they were in the form of tiles, they were not excluded from the purview of Notification

No. 59/90-C.E. and the concessional rate of central excise duty was available to the goods in question.

3. Shri Satnam Singh, SDR, replied that there is no dispute that the goods were in the form of tiles. The tiles were excluded from the purview of Notification No. 59/90-C.E. and the fact that the tiles were used for protection of the cables could not be a ground to bring them within the purview of the notification.

4. We have carefully considered the matter. In the classification list, the appellants have described their products as re-enforced cement concrete (RCC) tiles. There is no dispute that the tiles manufactured by the appellants were covered by sub-heading No. 6807.00 of the Tariff. Chapter 68 of the tariff covered articles of stone, plaster, cement, asbestos, mica or similar material. Under sub-heading No.6807.00 "All other articles of stone, plaster, cement, asbestos, mica or of similar materials, not elsewhere specified or included" which were not specified or included in other headings of Chapter 68 i.e.

Heading Nos. 68.01 to 68.07 were covered.

5. The appellants have claimed that earlier they were extended the benefit of Notification No. 132/88-C.E., dated 15-3-1988 while in the present proceedings, the benefit of Notification No. 59/90-C.E., dated 20-3-1990 had been denied to them. We find that under Notification No.132/88, dated 15-3-1988 all goods falling under Heading No. 6807.00 of the Tariff were eligible for the concessional rate of duty. There was no exclusion of the goods classifiable under sub-heading No. 6807.00 which were covered by that notification. We find that such is not the case under Notification No. 59/90-C.E., dated 20-3-1990. Under Serial No. 4 of the table annexed to that notification, floor coverings in rolls or in the form of tiles were specifically excluded from the purview of the concessional rate of duty. Undisputedly, the goods in question are tiles. The expression 'floor' is wide enough to cover the product as well as the use as given by the appellants. The Collector of Central Excise (Appeals) had referred to the various submissions made by the appellants and after referring to the tariff entry and the exemption notifications had held that even when the appellants' submissions are taken note of that the tiles were used for functional purposes as they were laid on the top of the cable running

below the ground, it had to be taken that these tiles were used for floor coverings only. He had further observed that a tile continues to remain a tile whether it is reinforced or not. He held that the appellants' product under dispute was used as floor coverings inasmuch as it is placed on the floor and covers the cable running underneath.

6. Taking note of the product, the submissions made by the appellants and the discussion by the appellate authority, we do not find any material to interfere with the view taken by the Collector of Central Excise (Appeals), Bombay, in this case. We do not find any merit in this appeal and the same is rejected.

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