

Collector of Central Excise Vs. K.K. Interlining

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-16-1998

Reported in : (1998)(102)ELT174TriDel

Appellant : Collector of Central Excise

Respondent : K.K. Interlining

Judgement :

1. Respondent, engaged in the manufacture of different varieties of 100% cotton fabrics such as Bleached Sheetings, Scoured Sheetings, Dyed Sheetings and Grey Sheetings, filed Classification List Nos. 36/90-91 and 74/90-91, proposing classification under Chapter Heading 52.06 claiming full exemption under Notification Nos. 253/82,47/90 and 48/90.

Show cause notice dated 30-1-1991 was issued proposing classification under Chapter Heading 59.01. Subsequently, classification list No.566/91-92 was filed and classification suggested was approved. In respect of other Classification Lists also show cause notices were issued. After hearing the respondent, the Assistant Collector confirmed the classification proposed under Chapter Heading 59.01. This order having been set aside by the Collector (Appeals), Collector of Central Excise, Vadodara has filed the present appeal.

"5206.00 Cotton fabrics (excluding fabrics covered under heading Nos. 52.09, 52.10 and 52,11) - (b) subjected to the process of bleaching, mercerising, dyeing, printing, waterproofing, shrink-proofing, organide processing or any other process

or any two or more of these processes with the aid of power or steam."5901.10 Textiles fabrics coated with gum or amylaceous substances, of a kind used for the outer covers of books or the like; buckram and similar stiffened textile fabrics." 3. The goods manufactured by the respondent are 100% cotton fabrics woven on looms other than handlooms and subjected to the process of bleaching. If there is nothing more, the goods will attract Chapter Heading 52.06. There is no evidence to show that the fabrics manufactured by the respondent are coated with gum or amylaceous substances of a kind used for outer covers of books or the like. The department has no case that the subject cotton fabrics are 'buckram'.

The Assistant Collector held that the cotton fabrics manufactured by the respondent have some degree of stiffness and can be put to the same use to which 'buckram' can be put. Chapter Heading 5901.10 refers to "buckram and similar stiffened textile fabrics". The Tribunal has, in more than one decision, taken the view that unless the stiffening is permanent, fabric which does not fall within the description 'buckram', cannot be classified under Chapter Heading 59.01. See Sunita Textiles Ltd. -1993 (67) E.L.T. 932 (T), Siddheshwar Textile Mills Pvt. Ltd. - 1998 (98) E.L.T. 522 (T), Final Order No. 1953/97-WRB, dated 12-5-1997 in Appeal No. E/2106/91-D, Susma Textiles Pvt. Ltd. -1998 (97) E.L.T.65 (T) and 1998 (99) E.L.T. 158 (T). The use to which the goods are put to may not have relevance in the absence of character of permanent stiffening required for classification under Chapter Heading 59.01.

Collector (Appeals) was therefore justified in upholding the classification under Chapter Heading 52.06. We find no ground to interfere and accordingly dismiss the appeal.

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