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Collector of Central Excise Vs. Tender Care International

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-03-1998

Reported in : (1998)(104)ELT424TriDel

Appellant : Collector of Central Excise

Respondent : Tender Care International

Judgement :

1. In the above appeal, the Revenue is aggrieved by the order of the Collector of Central Excise (Appeals) confirming classification of 'Air Plast' Air Bubble Cushion films under CET sub-heading 3923.90 as "article for packing of goods, of plastics". According to the Revenue, the product is nothing but a laminated plastic film hence meriting classification under CET sub-heading 3920.38.

2. We have heard Shri Satnam Singh learned DR and Shri Gopal Prasad, learned Advocate. We agree with the learned Counsel that the issue is no longer res integra in view of the decision of the Southern Zonal Bench in the case of Aeropack Corporation v. Collector of Central Excise, Bangalore (Final Order No. 1086/96, dated 25-6-1996) in which the Tribunal has upheld classification of the identical product under CET sub-heading 3923.90. The Tribunal has held that the article is admittedly specifically used for packing of goods as packing material and Tariff Heading 3923, as it is worded, clearly sets out that the goods covered there under have to be articles either for conveyance or packing of goods and that these should be made of plastics. The Tribunal has held that bubble cushion on one side intended for packing of goods and for that reason, it would fall under Heading

3923.

Following the ratio of the above order, we uphold the impugned order passed by the Collector of Central Excise (Appeals) and reject the appeal of the Revenue.

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