

**Devkinandan and Sons Vs. Collector of C. Ex.**

**Devkinandan and Sons Vs. Collector of C. Ex.**

**SooperKanoon Citation :** [sooperkanoon.com/14455](http://sooperkanoon.com/14455)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Oct-07-1998

**Reported in :** (1999)(105)ELT671TriDel

**Appellant :** Devkinandan and Sons

**Respondent :** Collector of C. Ex.

**Judgement :**

1. M/s. Devkinandan & Sons manufactured G.I. threaded stay rods and anchor plates. Both the products were classified under Tariff Item 7326.90 under the classification list w.e.f. 1-4-1988. Subsequently, w.e.f. 21-12-1988 through another classification list, G.I. threaded stay rods was classified under 7318.10 and anchor plate was classified under 7326.90. The appellants were also claiming benefit of Notification No. 175/86 as small scale unit. The adjudication proceedings held that since two items classifiable under different Tariff Headings were being manufactured, the exemption had to be limited to Rs. 15 lacs per year in respect of each item. The order held that for the purpose of bifurcation of the products, the classification list as approved; from time to time should be taken as conclusive.

Accordingly, differential duty was demanded. Appellant submits that both items under the same Tariff Heading being exempted, bifurcation should be done according to the correct classification as approved subsequently w.e.f. 21st December.

2. The appellants have not appeared for hearing. Heard Shri Nunthuk, learned JDR who submits that relevant factor for bifurcation is the "Chapter of the said Schedule" under which the goods fell and not the sub-heading under the same Chapter. In the instant case, as both the goods continue to be classified under the same Chapter, namely 73 even after December, 21 classification list there was no requirement to bifurcate the goods at all and to decide the ceiling for clearance under each sub-heading.

3. We have perused the records of the case and have considered the submissions made by both the sides. We find that under Notification No.175/86 the exemption was to be administered by grouping the clearance of the specified goods chapterwise. As both the goods covered by the impugned order were being classified under the same Chapter, occasion for bifurcation did not arise at all. Therefore, duty paid by them is found to be correct. The appeal is disposed of on these terms.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**