

Pharmachine Mfg. Co. Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-19-1999

Reported in : (1999)(107)ELT624TriDel

Appellant : Pharmachine Mfg. Co.

Respondent : Collector of Central Excise

Judgement :

1. The appellants herein are manufacturers of punches and dies which are tablet forming tools manufactured according to the specifications of tablet manufacturers, who used the same with tablet manufacturing machines. They claimed classification under CET sub-heading 8485.90 as parts of tablet making machines. The Department issued a show cause notice on 23-10-1990 proposing reclassification under CET sub-heading 8207.00 as punches and dies. The classification as proposed in the notice was confirmed by the Assistant Collector; the lower appellate authority upheld the Assistant Collector's order and hence this appeal.

2. The appellants have asked for a decision on merits and, therefore; we heard Shri Negi, learned SDR and perused the records.

3. We find that the Department seeks to rely upon Note 2(a) to Section XVI of the Central Excise Tariff which reads as under :- "Parts which are goods included in any of the Headings of Chapter 84 or Chapter 85 (other than Heading Nos. 84.85 and 85.48) are in all cases to be classified in their respective headings." 4.

However, this Note does not apply to the goods in question since they are not independent goods falling under either Chapter 84 or Chapter 85, but independent goods falling under Chapter 82. The claim of the appellants that the goods in question are spare parts of tableting machines for making tables from dry powder, and do not have any function of perforating, cutting pressing holes, stamping, etc., has not been reputed by the department. Further the Collector (Appeals) has accepted their contention that the goods are used along with tablet making machines. Therefore, the appellants contention that they are classifiable under Heading 84.85 (sub-heading 8485.90) which covers "machinery parts not specified or included elsewhere in this chapter is correct." We therefore, uphold classification of the punches and dies in question under CET sub-heading 8485.90, set aside the impugned order and allow the appeal.

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