

Universal Cans and Containers Vs. Collector of C Ex.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-01-1999

Reported in : (1999)LC176Tri(Delhi)

Appellant : Universal Cans and Containers

Respondent : Collector of C Ex.

Judgement :

2. The appellants herein are manufacturers of metal containers, they acquire duty paid tin sheets. They punch various parts of metal containers out of those metal tin sheets. What remains of tin sheets after punching the various part is the subject matter of classification before us. The appellant have described the same as waste and scrap of steel falling under Tariff Heading 7203.20 whereas the Revenue contends that this left over material is cuttings of tin sheets under Tariff Heading 7212.20.

3. Ld. Advocate Shri Sanjeev Sen submits that the Apex Court in its judgment in the case of LML Ltd. v. Collector of Central Excise, Kanpur reported in 1997 (94) E.L.T. 273 (S.C.) has held that such left over material (described as off cuts in that judgment) is to be classified under Tariff Heading 72.10 as "shapes and sections" and not under 7203.20 as contended by the appellant or under Tariff Heading 7212.20 as contended by the Revenue. In that case of LML the appellant therein was bringing duty paid steel sheets and making out scooter parts out of those steel sheets. Controversy was regarding the left over material after cutting out of the blanks for the scooter parts. The similar controversy exists in this case.

4. We have heard the Id. JDR for the Revenue also on the aspect of classification. Having regard to the judgment of the Apex Court in the case of LML (mentioned supra) we hold that the left over material in the present case would be classifiable under Tariff Heading 72.10 and not under 7203.20 as claimed by the appellants herein or under Tariff Heading 7212.20 as claimed by the Revenue.

5. Apart from the foregoing, Id. Advocate has also contended that the demand of duty is fully barred by time inasmuch as the show cause notice has been issued on 4-4-1991 for the period 1-3-1986 to 28-2-1988, even though the classification list has been duly approved by the concerned competent authority under Tariff Heading 7203.20. We have seen the relevant classification list. We agree with the Id. Advocate that the demand is wholly barred by time. Consequently, we set aside the demand of duty of Rs. 1,30,075/-. We also set aside the penalty of Rs. 20,000/-. Appeal disposed of in the above manner.

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