Collector of Central Excise Vs. Revathy Industries

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-17-1999

Reported in : (1999)(113)ELT596TriDel

Appellant : Collector of Central Excise

Respondent : Revathy Industries

Judgement :

1. Briefly stated the facts of the case are as follows: The respondents herein were manufacturing Main cord/flex cord with plugs affixed with brand names "Sumeet" /"Sears" of their customers and selling those goods to the brand owners namely M/s. Power Control Appliances in the case of brand name "Sumeet" and M/s. Elcot in the case of brand name "Sears". These main cords/flex cords were utilised by the customers as parts of their appliances, namely, Mixies and Grinders by M/s. Power Control Appliances and as part of TV by M/s. Sears Elcot.

2. A question has arisen whether the benefit of Notification No.175/86-C.E. can be denied to the clearances of the said goods having the brand name affixed as "Sumeet" and "Sears" as the case may be, on the basis of para 7 of the said notification. Lower appellate authority has allowed the benefit of Notification No. 175/86-C.E., holding that the brand name "Sumeet" or "Sears" is meant for Mixies or TVs, as the case may be, and not for flex cords and therefore, the para 7 of the said notification is not attracted. The goods had been merely sold to the manufacturers of Mixies and TVs and therefore, there is no association between the goods and the customers in the course of trade of main/flex cords inasmuch as

no trading as such in main/flex cords takes place without their becoming part of the other goods, Mixies or TVs.

3. It is against the aforesaid order that the Revenue has come in appeal. We have heard the ld. SDR Shri R.D. Negi. We have also gone through the impugned ordered as stated above. We do not find any reason to differ from the findings of the lower appellate authority. It is however, required to be checked whether the flex cords have been further sold by M/s. Power Control Appliances or M/s. Sears Elcot, as the case may be, for replacement market or they have been made merely as a part of Mixies and TVs. In case these main/flex cords have been sold by the customers as spare parts and not as part of Mixies and TVs, then the mischief of benefit of para 7 of the notification would be attracted. In that case, there may be limited liability in respect of the goods so cleared and sold as such for replacement market. To that extent only, depending upon the factual verification to that effect, Revenue's appeal would be liable to be accepted. We order accordingly.

Appeal disposed of in the above manner.