Commissioner of C. Ex. Vs. Phenolite Electro Heat P. Ltd.

Commissioner of C. Ex. Vs. Phenolite Electro Heat P. Ltd.

SooperKanoon Citation : sooperkanoon.com/15816

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-13-1999

Reported in : (2000)(116)ELT262TriDel

Appellant : Commissioner of C. Ex.

Respondent : Phenolite Electro Heat P. Ltd.

Judgement :

1. In this appeal we are concerned with classification of Silicon Carbide Heating Elements. The lower authorities have classified them under Tariff Heading 85.14 as parts of furnance where they are used on the basis of various certificates supplied by the respondents.

1.1 Revenue, on the other hand, contends that these are classifiable under Tariff Heading 85.16 inasmuch as these are nothing but electric heating resistors. Which is specifically mentioned in the Tariff Heading 85.16. Thus classification is sought under that heading.

1.2 Major reliance has been placed by the Revenue on the Explanatory Notes to HSN, which inter alia, states that with the exception of those of carbon all electrical heating resistors are classified here, irrespective of the classification of the apparatus or equipment in which they are to be used. They consist of bars, rods, plates, etc. or lengths of wire (usually coiled), or of special material which becomes very hot when current is passed through it. Material used varies (special alloys, compositions based on silicon carbide etc.).

2. After having gone through the material on record, no doubt is left that the elements under consideration before us become very hot after passing electric current through them and they are also made of silicon carbide. In view of the Explanatory Notes, no doubt is left that they should be classifiable under Tariff Heading 85.16 despite the fact that they might have been given some special shape or design so as to be usable for high temperature purposes in specific furnances, as mentioned by the respondents. It is very clear as mentioned in the Explanatory Notes that all types of heating resistors irrespective of the classification of the apparatus or equipment are to be classified under Tariff Heading 85.16. Therefore, the various certificates produced by the respondents and produced before the lower authorities do not help the respondents herein. It is an admitted fact that the Central Excise Tariff is based on HSN and therefore, HSN Explanatory Notes are of high persuasive value, as held by the Apex Court in the case of Woodcraft Products Ltd. reported in 1995 (77) E.L.T. 23.

Accordingly, we hold that the impugned order is not correct. It is, therefore, set aside and we allow the appeal with consequential relief to the appellants.