

**Lohia Starlingers Ltd. Vs. Collector of Central Excise**

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

**Decided On :** May-14-1999

**Reported in :** (1999)(113)ELT648TriDel

**Appellant :** Lohia Starlingers Ltd.

**Respondent :** Collector of Central Excise

**Judgement :**

1. Matter called. None for the appellant. However, vide their application dated 12-5-1999, they have requested for deciding the case on the basis of available facts and documents on record. Hence we have heard Id. JDR Sh. M.P. Singh in respect of Revenue's case.

2. Question involved in the present matter is regarding classification of machine described as "Sacks Delivery and Stacking Unit (SDSU)." 3. The appellants claimed the Classification of the said item under Tariff Heading 84.48 as machine auxiliary to polycutting machine which according to them was classified under Tariff Heading 8444 as it was imported.

4. As against the above, the lower authorities have held the classification of SDSU under Tariff Heading 84.79 as machine having an individual function.

5. We have gone through the impugned order. Sum and substance of the findings of the authorities below is that SDSU cannot be considered a machine auxiliary to polycutting fabric whereas the function of SDSU is to deliver the sacks and then

count them after stacking them. It can by no stretch of imagination be considered to be a machine auxiliary to polycutting machine. We also observe that the original authority as well as the lower appellate authority have relied essentially on the Explanatory Notes to HSN for determining the scope of the expression 'auxiliary machine'. We agree with the findings of the adjudicating authority, as also the lower authority that the machine SDSU, not being mounted on polycutting machine cannot be considered to be an auxiliary machine. We do not find anything wrong in the reasoning of the authorities below.

6. We, further, observe from the grounds of appeal in the Appeal Memo filed by the appellants that they have not said anything in the appeal memo as to why the machine SDSU can be called a machine auxiliary to polycutting by them. Please made by them in that respect before the lower authorities have been dealt with by those authorities. In the circumstances we do not find any substance in the appeal of the appellants herein. Hence we reject the same.

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