Commissioner of Central Excise Vs. Unicast (P.) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-07-1999

Reported in : (1999)(113)ELT161TriDel

Appellant : Commissioner of Central Excise

Respondent : Unicast (P.) Ltd.

Judgement :

1. The issue involved in this appeal, preferred by the Revenue, is classification of certain products, which are used as parts of the cooling tower, whether they are classifiable under sub-heading 3925.99 as claimed by the Revenue or under 84.19 of the Schedule to the Central Excise Tariff Act as decided by the Collector (Appeals), in the impugned order.

2. When the matter was called, no one was present on behalf of the respondents, M/s. Unicast Pvt. Ltd., though under their letter dated 10-5-1999, they have authorised one Manjeet Singh, Advocate to appear on their behalf.

3. We have heard Shri H.K. Jain, ld. SDR, who submitted that the cooling towers are building like structure and for construction and erection of the same, a number of products are manufactured in separate course and assembles. Accordingly, these items and parts, being builderswares, are to be classified under Heading 39.25.

4. We have considered the submissions made by ld. SDR and perused the records. We find that the Collector (Appeals) has classified the products under Heading 84.19 resorting to Note 2 to Section XVI of the Schedule to the Central Excise Tariff Act. According to Note 2, parts, if suitable for use solely or principally with a particular kind of machine, are to be classified with the machine of that kind. The exception to the note is that parts of general use will not be covered by Section XVI, which covers Chapter 84 and 85. Parts of general use have been defined in Note 2 to Section XV, according to which, the parts such as pipes and tubes, screws, bolts and nuts, chain and nail, etc. are the parts of general use. The department has not adduced any evidence to show that the impugned goods are parts of general use. In fact, in their appeal memorandum, it has been mentioned by the Revenue that these parts may not be available in the market. We, therefore, find no flaw in the impugned order and reject the appeal filed by the Revenue.