

Collector of C. Ex. Vs. Indian Drawing and Equipment

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-10-1999

Reported in : (1999)(113)ELT454TriDel

Appellant : Collector of C. Ex.

Respondent : Indian Drawing and Equipment

Judgement :

1. In this appeal filed by the Revenue, the matter relates to the classification of filing cabinets and plan filing cabinets. Some other items were also involved in the appeal filed by M/s. Indian Drawing & Equipment Industries before the Collector of Central Excise (Appeals) with which, however, we are not concerned. The learned Collector of Central Excise (Appeals) had classified both the filing cabinets and the plan filing cabinets under Heading No. 83.04 of the Central Excise Tariff. The Assistant Collector of Central Excise, Madras (Division in) who had adjudicated the matter had classified both these items under sub-Heading No. 9403.00.

2. When the matter was called, no one appeared for the respondents. The notice for today's hearing had been received back undelivered by the postal authorities with the remarks that no one was there at the given address. Earlier also, the notice had been received back undelivered when the matter was fixed for hearing on 13-4-1999. The notice was sent at the address in the records. As this is an old matter in which the show cause notice was issued in the year 1990, we are proceeding to deal with the matter on merits after hearing Shri R.K. Sharma, learned SDR.3. Shri R.K. Sharma, learned SDR submitted that the matter is

already covered by the Tribunal decision in the case of Elefur Industries (India) Pvt. Ltd. v. Collector of Central Excise reported in 1993 (63) E.L.T. 108 (Tribunal). The Tribunal had taken a view that the filing cabinets were office furniture designed to be placed on the ground and they were not desk or office equipment. By virtue of Chapter Note 2 of Chapter 94 of the Tariff, the Tribunal had classified the filing cabinets under Heading No. 94.03 of the Tariff.

4. The plan filing cabinets were similar to filing cabinets as has been indicated by the learned Collector of Central Excise (Appeals) in para 5 of her order.

5. Respectfully following the Tribunal's aforesaid decision, we set aside the impugned order-in-appeal insofar as the filing cabinets and plan filing cabinets are concerned. The learned Collector of Central Excise in the facts and circumstances of the case had reduced the amount of penalty from Rs. 5,000/- to Rs. 2,500/-. No modification is made with regard to the amount of penalty already reduced by the appellate authority.

6. With these observations, the appeal filed by the Revenue is allowed.

Ordered accordingly.

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