Collector of Central Excise Vs. Supreme Indus. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-06-1999

Reported in : (1999)(113)ELT460TriDel

Appellant : Collector of Central Excise

Respondent : Supreme Indus. Ltd.

Judgement :

1. In this appeal filed by the Revenue, the matter relates to the classification of the soil waste and rain water (SWR) PVC pipes and fittings. The respondents, M/s. Supreme Industries have sought classification under Chapter Heading 39.17 as tubes, pipes and hoses and fittings thereof of plastics. The Assistant Collector Central Excise who had adjudicated the matter observed that the SWR PVC pipes and fittings were nothing but gutter fittings thereof and were classifiable under sub-heading 39.25 as buildersware of plastic not elsewhere specified. On appeal Collector of Central Excise (Appeals) observed that the correct classification of SWR pipes and fittings [are] under sub-heading 3917.00.

2. Shri S. Das, JDR submitted that the pipes and fittings involved in these proceedings were for drainage purposes and they were covered by the broad description of gutter and fittings of gutters. He referred to the impugned order-in-appeal and submitted that the reliance placed by the appellate authority on ISI specifications was not correct as the specifications referred to only the asbestos product while there is no dispute that the products in question were made of plastics. He also submitted that the matter was distinguishable from the Tribunal's

decision in the respondents own case in the matter of C.C.E., Aurangabad v. Supreme Industries Ltd. 3. Shri B.N. Rangwani, Advocate appearing for the respondents submitted that the matter was covered entirely by the Tribunal's decision in the respondents own case and that gutters were separate product than pipes and fittings. The respondents were not engaged in the production of gutters and fittings of gutters and it had been made clear in their classification list. The goods were covered by Heading No. 39.17 of the Excise Tariff and the Heading No. 39.25 was a residuary heading and the goods could not be classified in a later residuary heading if they met the description in earlier specific heading.

4. We have carefully considered the matter. We find that SWR PVC pipes and fittings according to the respondents had various applications in agriculture, irrigation, chemical factory for discharging effluent.

They were in use in buildings for conveying of soil waste and rain water. They had submitted that the gutters were a separate concept.

5. According to the Oxford Advanced Learners Dictionary of Current English by A.S. Hornley, "gutter" is a channel or trough fixed under the edge of roof to carry away the rain water. Longman's Dictionary of Contemporary English' describes the "gutter" as an open pipe fixed at lower edge of roof to collect and carry away rain water.

6. We find that under sub-heading 3917.00 pipes of plastics are specifically described. The buildersware were described under Heading 39.25, and under sub-heading 3925.10 reservoirs, tanks, vats and similar containers of a capacity exceeding 300 litre were classified.

Doors, windows and their frames and thresholds for door were classified under sub-heading 3925.20. Sub-heading No. 3925.30 covered shutters, blinds and similar articles and parts thereof. Entry No. 39.25 is a general entry and when pipes are specifically described under Heading 39.17, we consider that Heading No. 39.17 will prevail over Heading 39.25.

7. We find that the matter is covered by the Tribunal decision in the case of Collector of Central Excise, Aurangabad v. Supreme Industries Ltd. 1999 (30) RLT 858 (CEGAT) where the Tribunal had held that SWR PVC pipes and fittings manufactured by the respondents themselves were classifiable under Heading No. 39.17 and not under Heading 39.25. The Tribunal had relied upon their earlier decision in the respondents' own case Final Order No. 494/98-C, dated 29-6-1998 1999 (106) E.L.T. 207 (Tribunal) 8. Keeping in view the facts and circumstances of the case and respectfully following the Tribunal's earlier decision, we do not find any ground to interfere with the view taken by the Collector of Central Excise (Appeals) and as a result, the appeal filed by the Revenue is rejected.