Collector of Central Excise Vs. Metal Box India Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-30-1999

Reported in : (2000)(117)ELT271TriDel

Appellant : Collector of Central Excise

Respondent : Metal Box India Ltd.

Judgement :

1. In this appeal filed by the Revenue, the matter relates to the classification of the printed sheets which were used by the customers of the respondents, M/s. Metal Box India Ltd., for the manufacture of the jacket of the dry cell batteries. The respondents were bringing the duty paid sheets which had been classified in the hands of their suppliers under Sub-heading No. 7210.20 of the Tariff if the width was of 600 mm or more and under Sub-heading No. 7212.20 if the width was less than 600 mm. They were processing these sheets and the sheets as cleared were being classified by them under sub-heading No. 7210.30 or 7212.30 depending upon the width of the sheet. It was alleged in the show cause notice that these sheets were nothing but the battery jackets and the same were classifiable under Sub-heading No. 8506.00 as parts of dry cell batteries. The Collector of Central Excise (Appeals), Madras, observed in her order-in-appeal that these printed sheets were supplied to M/s. Toshiba Anand and were not in the form of jackets when cleared. They remained sheets, although there was a process of manufacture between the plain sheets and the printed sheets.

2. The Revenue in the appeal had pleaded that the sheets were exclusively used in the manufacture of battery cells and as per the Explanatory Notes to the HSN these sheets were nothing but unassembled battery containers and thus correctly classifiable under Sub-heading No. 8506.00 3. We have heard Shri M.P. Singh, JDR, for the appellant/Revenue and Shri Rajesh Kumar, Advocate, for the respondents, M/s. Metal Box India Ltd. We have gone through the facts on record and have duly considered the submissions made by both the sides.

4. The respondents were bringing flat rolled products of iron or non-alloy steel, clad plated or coated which were classifiable under Heading No. 7010 or Heading No. 7212 depending upon the width of the products. The respondents had brought the sheets plated or coated with tin which during the relevant time under the Tariff as in force then were classifiable under Sub-heading No. 7210.20 or 7212.20 depending upon the fact whether the width was of 600 mm or more or was of less than 600 mm respectively. They subjected these sheets to various processes and when the sheets were cleared they were, according to them, classifiable under Sub-heading No. 7210.30 or 7212.30 depending upon the width.

5. Shri M.P. Singh, JDR, had submitted that on the sheets the details of the battery for which these goods were required were specifically printed and they had no other use than as parts of the battery cells.

It is his contention that read with HSN Explanatory Notes, these goods should have been correctly classified as parts of the cells.

6. From the impugned order-in-appeal, we find that when the goods in dispute were cleared they were cleared in the form of sheets and their customers were required to cut them into smaller sizes of 10 cm long and 3 cm broad. Thereafter each smaller piece was folded in the form of cylinder and joints were soldered to become the jackets for the dry cell battery. All these processes were undertaken by their buyers, M/s.

Toshiba Anand in their factory. He has recorded that when cleared from the premises of the assessee, the goods were in the shape of sheets without attaining any of the characteristics of the final product and thus Rule 2(a) of the interpretative Rules could not be invoked. These factual details as given in the order-in-appeal have not been rebutted by the Revenue in the grounds of appeal.

7. In the grounds of appeal, reference has been made to the Explanatory Notes to the HSN. We find that these sheets could not be considered as unassembled battery containers. They remained sheets, although for specific use and specifically in the manufacture of dry cell battery parts. At the stage of the clearance, they could not be considered as the parts of the dry cell batteries. Reference has also been made to the Supreme Court decision in the case of Commissioner of Sales Tax v.Lodha Singh, AIR 1971 S.C. 2221 and Commissioner of Sales Tax v. S.N.Brothers, AIR 1973 S.C. 78, wherein it had been held that classification of the goods for tax purposes should be viewed from the angle both of a merchant dealing in that commodity and the consumer who purchases the same. We do not consider that the dispute in the present case has any relevancy to these issues.

8. Shri Rajesh Kumar, Advocate, had also referred to the Tribunal's decision in the case of C.C.E., Bangalore v. Sheltron Metals Ltd., 1997 (92) E.L.T. 224 (T). In that case, the respondents were making dry cell battery jackets. The Tribunal had observed that the dry cell battery jackets were not classifiable under Heading No. 85.06 of the Tariff.

9. Keeping in view the nature of the goods as cleared and the facts and circumstances of the case, we do not find any infirmity in the view taken by the learned Collector of Central Excise (Appeals) in respect of the products printed sheets which were the subject matter of the present appeal. Accordingly, we do not find any merit in this appeal filed by the Revenue and the same is rejected. Appeal dismissed.