Collector of Central Excise Vs. Texel Plastic Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-05-1999

Reported in : (1999)(114)ELT344TriDel

Appellant : Collector of Central Excise

Respondent : Texel Plastic Ltd.

Judgement :

1. Respondents herein are engaged in the manufacture of HDPE Fabrics coated with LDPE on both sides and selling them as Tarpaulin. Question involved in this appeal is regarding classification of the said product, Tarpaulin. Respondents contend that it is classifiable under Tariff sub-heading 3926.90 as upheld by the lower authorities. Revenue contends on the other hand it is classifiable under Tariff Heading 63.01.

2. Revenue's case is on the ground that said fabrics arises out of HDPE tapes manufactured by the appellants themselves which is a textile material and, therefore, the said HDPE tapes fell under sub-heading 5406.49. Consequently, the finished product, Tarpaulin would merit classification under Heading 63.01.

3. We observe, after having heard both sides, that this contention of the Revenue is no longer sustainable in view of Madhya Pradesh High Court judgment in the case of Raj Packwell Industries Limited reported in 1990 (50 E.L.T. 201. Therefore, the product, as mentioned above, would also clearly fall under Tariff Heading 3926.90, as held by the Tribunal in its Final Order No. 261/98-C [1998

(102) E.L.T. 286 (Tribunal)] in the appellants own case although the controversy in that case before the Tribunal is between other two entries, namely, 39.20 and 39.26.

5. Cross-objections filed by the Respondents herein are not maintainable because they get complete relief by the lower authorities vide the impugned order. Therefore, the cross-objections are also dismissed.