

Collector of Central Excise Vs. Lumel Shades P. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-12-1999

Reported in : (1999)(114)ELT734TriDel

Appellant : Collector of Central Excise

Respondent : Lumel Shades P. Ltd.

Judgement :

1. When the case was called none appeared on behalf of the respondents.

The notice of hearing issued to the respondents received back unserved.

2. The Revenue filed this appeal against the order-in-appeal dated 14-7-1992 passed by the Collector (Appeals), Bombay. In the impugned order the Collector of Central Excise (Appeals) after relying upon the earlier order passed by the Collector (Appeals) held that knitted polyester/nylon ladderstring web is classifiable under Heading 60.01 of the Central Excise Tariff.

3. Heard Shri Ashok Kumar, learned JDR, and perused the appeal papers.

The Commissioner of Central Excise (Appeals) in the impugned order relied upon the earlier order passed by the Collector in respect of classification of the same product. The Revenue has not produced any evidence to show that the earlier order passed by the Collector (Appeals) is set aside. Further from the grounds of appeal we find that in this appeal the Revenue wants the classification of the product under sub-heading 5608.00 of the Central Excise Tariff whereas before

the Appellate Commissioner contention of the Revenue was that the goods was classifiable under sub-heading 5909.00 of the Central Excise Tariff. When there is no issue raised by the Revenue regarding classification of the product under sub-heading 5608.00 before the appellate authority, the Revenue now cannot claim classification under this sub-heading. In view of the above discussion we do not find any merit in the appeal. Accordingly the appeal is rejected.

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