

Ruby Mills Co. Vs. Collector of C. Ex.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-16-1999

Reported in : (2000)(115)ELT423TriDel

Appellant : Ruby Mills Co.

Respondent : Collector of C. Ex.

Judgement :

1. Matter called. None for the appellants. However, by their letter dated 18-6-1999, they have requested for deciding the case on merits on the basis of available records. Hence, we have heard the Id. JDR for Revenue.

2. Question before us is classification of processed textile. The process of manufacture is described as below :- "The party is using screen printing process for printing of fabrics.

The screens are made out of bought-out nylon bolting cloth and the manufacturing process for the screen consist of coating the cloth with photographic chemicals, covering the non-sensitised cloth with tracing paper containing designs and exposing the covered cloth to light when the design on the tracing paper gets imprinted on the sensitised cloth. The screen so made are used for the printing of fabrics." It is therefore, clearly seen that the sensitised textile is developed and not simply exposed inasmuch as the design on the tracing paper gets imprinted on the sensitised cloth.

3. Lower authorities classified the aforesaid product under Tariff Heading 37.04. Appellants, however contend that its proper classification would be under Tariff Heading 84.42. It reads as follows :- "84.42 Machinery, apparatus and equipment (other than the machine-tools of Heading Nos. 84.56 to 84.65), for type-founding or type-setting, for preparing or making printing blocks, plates, cylinders or other printing components; printing type; blocks, plates, cylinders and other printing components; blocks, plates, cylinders and lithographic stones, prepared for printing purposes (for example, planed, grained or polished)." 4. We may also mention at this stage that the Commissioner (A) has classified the aforesaid product under Chapter 59.

5. The appellants rely on the Tribunal's judgments in the case of C.C.E., Surat v. Kohinoor Dyeing and Printing Works 1994 (71) E.L.T.1043 (Tribunal) wherein classification of an article described as printing frame has been made under Tariff Heading 84.42.

Ld. JDR Sh. V.M. Udhoji however submits that this classification would not be suitable one because the Tribunal considered in the aforesaid case of Kohinoor Dyeing and Printing Works (supra) classification of printing frame; here, he submits, we are faced with the classification of merely the textile article sensitised by photo-chemicals. He, therefore, submits that it is not a printing frame as such and at best only a part of printing frame. We also observe that classification given by the lower authority under Tariff Heading 37.04 will also not be appropriate because the tariff description reads as 'photographic textiles exposed but not developed', since it is a developed photographic textile, as is apparent from the aforesaid process of manufacture for the same reason, 59.09 will also not be applicable because the said Tariff Heading read with Chapter Note 6 of the relevant period speaks of coating or covering of the textile material.

Obviously, it will not cover the coating or covering which has been exposed and in this case it is further developed. Therefore, Tariff Heading 59.09 is also ruled out.

6. We also observe that the said product can be used only for utilisation in printing frame alone. Therefore, the proper classification of it would be under Tariff Heading 84.42. Hence, we set aside the impugned order and allow the appeal with

consequential relief to the appellant.

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