

C.D. Industries Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-01-1984

Reported in : (1984)(18)ELT83TriDel

Appellant : C.D. Industries

Respondent : Collector of Central Excise

Judgement :

1. The question for decision in this appeal to the Tribunal is whether the flat steel product manufactured by the appellants called 'Pattis' is classifiable as 'strips' under Tariff Item 26AA(iii) of the Central Excise Tariff as held by the Assistant Collector of Central Excise, Division-II, Kalyan by his order dated 26-12-1982, which was upheld by the Collector of Central Excise (Appeals), Bombay by his order dated 22-4-1983 or under T.I. 26AA (ia) ibid, as claimed by the appellants.

2. The appellants filed classification list effective from 13-1-1982 in respect of their Stainless Steel product claiming classification under sub-item (ia) of Item 26AA of C.E.T. and exemption in terms of Notification No. 206/63 dated 30-1-1963, as amended and Notification No. 152/77-C.E., dated 18-6-1977, as amended. The Assistant Collector of Central Excise, did not accept their classification under sub-item (ia) claimed by the appellants and held that their product is properly classifiable as 'strips' under T.I. 26AA(iii). As already observed above, the order was upheld in appeal.

3. At the hearing of the appeal before us, Shri J. Banerjee, learned Advocate, explained to the Bench, the nature of the product with reference to I.S.I. specifications and claimed that goods were not classifiable as 'strips'. He also argued that the appellants' factory was not a strip mill and therefore the product could not be considered as 'strips'. For the purpose he relied on certain Government of India's decisions and decision of the Bench dated 27-7-1983 (Order No.698/1983-B, in appeal No. ED (SB) (T) 125/1982-B in the case of Collector of Central Excise, Pune V. M/s. Tigrena Metal & Steel Industries, Nasik) Shri Banerjee, learned Advocate also argued that after the Excise authorities classified the appellants' goods as 'strips', the appellants approached the I.S.I. authorities for certification of their product as 'strip', but the I.S.I. authorities declined to do so. A communication dated 28-6-1983 received from ISI, addressed to the appellants to this effect was placed before us. Shri Banerjee further argued that in the case of other manufacturers, similar product was being classified under sub-item (iii) of Item 26AA and in support of his contention he placed copies of Order-in-appeal No. 152-153/CE/CHG/81 dated 24-11-1981 and Order-in-appeal No. 70 to 80 of CHG/81 dated 19-11-1981 passed by the Appellate Collector of Central Excise, Delhi before the Bench.

4. On behalf of the respondent, Shri S.N. Khanna, D.R. stoutly defended the orders passed by the lower authorities. He argued that the appellants goods were properly classifiable as 'strips' falling under sub-item (iii) of T.I. 26AA. He further submitted that whether the goods were strips or not would not depend on whether the appellants Mill was a Strip Mill or not.

5. We have carefully gone through the submissions made by the parties and also the material placed before us during the arguments. We observe that the matter does not require any detailed discussion in view of earlier decision of the Bench in Collector of Central Excise, Pune v.M/s. Tigrania Metal & Steel Industries, Nasik (Supra) on which Shri Banerjee has relied and the Departmental Representative had no comments. In the case (Supra), the Bench relying on Government of India decision held that where a manufacturer's plant and machinery is not equipped for production of 'strips', 'pattis' produced by such manufacturers cannot be classified under sub-item (iii) of T.I. 26AA, but would be classifiable under sub-item (ia) of

T.I. 26AA. Further, it is not disputed that the appellants' mill is not a strip mill or equipped for the purpose.

In view of our earlier decision (*supra*), the appellants claim for classification of their product 'pattis' under sub-item (ia) of T.I.26AA would have to be accepted.

As a result of the aforesaid discussion, the order classifying the appellants product 'pattis' under sub-item (iii) of T.I. 26AA is set aside and classification under sub-item (ia) of T.I. 26AA accepted. The appeal is thus allowed.

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