

Divya Enterprises Ltd. Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-20-1999

Reported in : (2000)(115)ELT66TriDel

Appellant : Divya Enterprises Ltd.

Respondent : Collector of Central Excise

Judgement :

1. The short point for determination in this appeal is whether duty was payable at the fabric stage or at the stage when the assessee was paying duty after cutting this terry towelling fabric stitching into towels and hemming them.
2. The facts of the case, in brief, are that the appellants are engaged in the manufacture of terry towelling fabrics and terry towels. During the material period, there was Notification No. 65/87, dated 1-3-1987 which inter alia provides that if the duty was paid at terry towelling fabric stage then no duty was required to be paid at the terry towel stage, stitched, hemmed and made out of terry towelling fabric.
3. Shri V. Lakshmi Kumaran, learned Counsel, submits that in view of this exemption notification no duty was payable at the towel stage when duty was paid at the fabric stage. He submits that since the appellants had already paid duty at the towel stage and that amount was naturally higher than the amount that would have been paid at the fabric stage.

He submits that there was no question of any further payment and prays that appeal may be allowed.

4. Shri R.S. Sangia, learned JDR reiterates the findings of the authorities below.

5. We have heard rival submissions. We note that the appellants have been paying duty on terry towels after cutting, stitching and hemming them. We also note that during the material period, there was Notification No. 65/87, dated 1-3-1987 which provides exemption on towels if the duty was paid at fabric stage. Having regard to this Notification, we hold that no further duty was required to be paid. In this view of the matter, the impugned order is set aside and the appeal is allowed. Consequential relief, if any, shall be admissible to the appellants in accordance with law.

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