Commissioner of Central Excise Vs. Mega Quilts Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-11-2000

Reported in : (2000)(119)ELT497TriDel

Appellant : Commissioner of Central Excise

Respondent : Mega Quilts Ltd.

Judgement :
1. The respondents herein are engaged in the manufacture of Quilts and Quilted items out of quilted fabrics. The manufacturing process is as under; (i) The pieces of duty paid cloth (cotton, polyester, polyester cotton blend or viscose cloth) and one piece of cotton/polyester duty paid wadding are fed to the machine in a manner that top and bottom layers will be fabric and central layer will be wadding.

(ii) This mass of cloth and wadding is stitched by the needles and threads of the Quilting machines and thereby a sandwich of clothes and wadding in between is formed. This sandwich material (Quilts in roll form; the product of the Quilting machine) is rolled on a spool.

(iii) Subsequently, this Quilt fabrics in roll form is taken out from the Quilting machine and cut into pieces. These pieces are then checked and mended for faulty stitching like floats, missing threads etc. After mending these cut pieces of quilts, bedspreads etc. If it is required, tailors attach frill on the edges to finish the piece goods.

2. They filed a classification list effective from 8-11-1993 for their product "quilted fabric claiming nil rate of duty as being an intermediate product which was not excisable. The Asstt. Commissioner held that quilt fabric which fall for classification under HSN Heading 58.11 are classifiable under 58.06 of the Schedule to the CETA, 1985, which corresponds to H.S.N. heading 58.11. He also denied the benefit of notification No. 217/86, dated 1-3-1986 since Chapter 58 was not covered by the notification. The lower Appellate Authority accepted the assessee's contention that quilt fabrics are not excisable product; hence, this appeal.

3. We have heard Shri Udhoji, ld. DR and Shri A.L. Mathur, learned Consultant. We find that plea of the respondents before the adjudicating authority was that quilt fabrics were not marketable without edge binding after being cut to size and that edge binding is done only when quilt fabric in running length is made into item such as quilts, jackets, table mats, etc. This contention has not been rebutted by the Revenue and further the Revenue has not discharged the burden cast on them to show that the goods on which the duty demand is sought to be raised are marketable. In this view of the matter there is no ground to interfere with the findings of the Commissioner (Appeals) who has held that quilt fabric in running length is not an excisable product. We accordingly upheld the impugned order and reject the appeal.