

Commr. of Customs (P) Vs. Afrique Trade Links Pvt. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-15-2000

Reported in : (2000)(120)ELT512Tri(Mum.)bai

Appellant : Commr. of Customs (P)

Respondent : Afrique Trade Links Pvt. Ltd.

Judgement :

1. The issue involved before the Commissioner (Appeals) was the classification of "Holograms". His finding was that they were classifiable under Heading 4911.99 under the CTA. The Jurisdictional Commissioner filed an appeal challenging this finding claiming classification under Heading 4911.91. This was against the allegation in the show cause notice alleging classification under Heading 3919.90.

The stay application was also filed which was dismissed by the Tribunal vide order dated 6-8-1996. The assessee then filed an application for early hearing which was dismissed for want of arguments. The stay application is once again filed by the department now, on the ground that the appropriate classification is under 3919.90 citing a Circular of the Ministry bearing No. 35/96 dated 21-6-1996.

2. We find this strange manner of conducting appeals where the prayer in stay application seeks a different classification than in the prayer made in appeal. Appeal memorandum is still not amended.