Commissioner of C. Ex. Vs. Unity Industries

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-25-2000

Reported in : (2000)(122)ELT622TriDel

Appellant : Commissioner of C. Ex.

Respondent : Unity Industries

Judgement :
1. The issue for determination in this appeal filed by the Revenue is the eligibility of stainless steel watch bands and watch straps falling under GET Sub-heading 9113.00 manufactured by the respondents herein to benefit of concessional rate of duty in terms of Notification 72/86-C.E., dated 10-2-1986, which inter alia covers watch components.

3. A watch consists of two main parts (1) the watch movement and (2) the container for the movement i.e. the case or cabinet. As per HSN Explanatory Notes at page 1539, a watch is complete when its components comprising the watch movement together with dial and the hands are fitted into a container or case. A wrist watch is capable of functioning as a wrist watch once the watch movement is fitted into the container. The bands or straps are only in the nature of accessories to the wrist watches. Hence, they are not covered by the Notification. The reliance placed by the learned Advocate on the judgment of the Hon'ble Gujarat High Court at Ahmedabad in the case of Vithal Chhagan and Sons v. The State of Gujarat is misplaced - the High Court was considering the question as to whether wrist watch cases are spare parts of watches and the Court held that

watch case is absolutely essential for the functioning of a watch as a wrist watch. In the present case, however, watch bands and watch straps are not absolutely essential for the functioning of a wrist watch as a wrist watch and the wrist watch can function as a wrist watch even without bands/straps.

4. Therefore, we hold that the benefit of concessional rate of duty under Notification 72/86-C.E. is not available to the goods in question, set aside the impugned order and allow the appeal of the Revenue.