

PragvIn Vs. Commissioner of Central Excise

PragvIn Vs. Commissioner of Central Excise

SooperKanoon Citation : sooperkanoon.com/19129

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Sep-12-2000

Reported in : (2001)(130)ELT849Tri(Mum.)bai

Appellant : Pragvin

Respondent : Commissioner of Central Excise

Judgement :

1. In the order impugned in the appeal, the Commissioner has confirmed the demand for duty issued to the appellant on the ground that the furniture manufactured by it was not entitled to the benefit of exemption contained in entry 4 to the Table to Notification 80/90. He found that the condition prescribed for availing the exemption that such furniture is made wholly of material other than materials falling within Chapter 44 of the Tariff was not complied with. He also found that the extended period contained in the proviso under Sub-section (1) of Section HA of the Act applicable for the reason that the assessee had suppressed the fact that the furniture was made partly of wood which falls under Chapter 44.

2. The appellant is absent and unrepresented despite notice. We have read the memorandum of appeal and heard the departmental representative.

3. We are not able to agree that the extended period of limitation would not apply. The appellant had claimed the benefit of notification, and had not indicated in the classification list that the furniture was partly of wood. There is no material to support the claim that this was due to bona fide misunderstanding. We are also

not able to accept that the amount of duty confirmed is erroneous and that the Commissioner has applied the rate of 30% ad valorem whereas the correct rate is 25%. The notice to show cause is not part of the appeal and no worksheet has been produced to substantiate this claim.

4. The contention that the appellant has used only a small portion of wood in the steel furniture manufactured by it is not relevant; the condition to the notification is clear and specific that the furniture should be made entirely of material other than material falling under Chapter 44.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com