

Commissioner of Central Excise Vs. S.T.P. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-31-2000

Reported in : (2001)(127)ELT820TriDel

Appellant : Commissioner of Central Excise

Respondent : S.T.P. Ltd.

Judgement :

1. In this appeal, the Revenue has challenged the validity of the impugned order dated 26-4-1995 passed by the Commissioner of Central Excise (Appeals), who upheld the order in original of the Assistant Commissioner regarding classification of the product in question (Tarfelt) under sub-heading 5909 of the CETA as claimed by the respondents and availability of benefit of Notification No. 53/65, dated 20-3-1965 to them.

2. The respondents are manufacturers of Tarfelt. They sought classification of their product under sub-heading 5909.00 of the CETA and claimed benefit of Notification No. 53/65-CE dated 20-3-1965. They, were however, served with show cause notice dated 19-2-1990 for denying them the benefit of the notification and for not accepting the classification of the product as claimed by them. They contested the correctness of that show cause notice and the Assistant Commissioner accepted their version that the product is classifiable under sub-heading 5909 of Central Excise Tariff Act and they were also entitled to the benefit of Notification No. 53/65, dated 20-3-1965.

This order of the Assistant Commissioner was challenged before the Commissioner (Appeals) by the revenue who upheld the same through the impugned order.

3. Feeling dissatisfied with the impugned order of Commissioner (Appeals), Revenue has come up in appeal before the Tribunal.

5. It has been fairly conceded by both the sides that the issue regarding the classification of the product in question - (Tarfelt), and the admissibility of the benefit of Notification No. 53/65 in respect of the same, already stands decided in favour of the respondents in their own earlier appeal decided by the Eastern Bench of the Tribunal vide Final Order No. A/447/CAL/96 dated 10-7-96. In that case, the Bench had already held that the product of the respondents i.e. Tarfelt is classifiable under sub-heading 5909 of the CETA and benefit of Notification in question No. 53/65, dated 20-3-1965 is available to them. Therefore, the impugned order of the Commissioner (Appeals) confirming the Order-in-original of the Assistant Commissioner holding the classification of the product in question (Tarfelt) under sub-heading 5909 of CETA and allowing the benefit of Notification No. 53/65, dated 20-3-1965 to the respondents, is perfectly valid and does not suffer from any infirmity so as to call for any interference.

6. Consequently there is no merit in the appeal of the Revenue and the same is ordered to be dismissed.

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