Collector of Central Excise Vs. Llyod Bitumen Products

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-07-2000

Reported in : (2001)(128)ELT382TriDel

Appellant : Collector of Central Excise

Respondent : Llyod Bitumen Products

Judgement :

1. In this appeal filed by the Revenue the matter relates to the eligibility for the benefit of exemption under Notification No.53/65-C.E., dated 20-3-1565 in respect of the products, roof loid and scrap felt. There is no dispute that these products were classifiable under Heading No. 59.09 of the Tariff. Both the Assistant Collector of Central Excise, Madras, IX Division who adjudicated the matter and the Collector of Central Excise (Appeals), Madras held that the goods were eligible for the exemption under the aforesaid notification.

2. In the appeal the Revenue had pleaded hat the products were not suitable for the applications envisaged in the notification. Under this notification, the rot-proofed jute products, laminated products and fire-resistant jute products were eligible for exemption. The Revenue has pleaded that the products were suitable only for water/damp-proofing.

3. When the matter was called no one appeared for the respondents. The notice for today's hearing has been received back undelivered with the postal remarks "left". We have heard Shri R.C. Sanklila, DR who re-iterated the grounds of appeal

taken by the Revenue.

4. On careful consideration of the matter, we find that both the adjudicating authority and the appellate authority had taken a consistent view that the goods in question were eligible for the benefit of exemption Notification No. 53/65 dated 20-3-1965. The Collector of Central Excise (Appeals) has followed his earlier decision in the case of Industrial (H) Packers, Madras, Order-in-Appeal No.5/95, dated 28-: 1-1995.

5. Further we find that similar goods had cone up for consideration before the Tribunal in the case of S.T.P. Ltd. v. C.C.E., Bhubaneswar in Appeal No. E(SB)538/88 wherein the Tribunal under Final Order No.A-447/CAL/1996, dated 10-7-1996 had held that the goods Tar felt and different varieties thereof were eligible for the benefit of the aforesaid exemption Notification. In para 3, the Bench has observed that similar products were being presently assessed under Heading 59.09 with benefit of Notification No. 53/65.

6. As a consistent view had been taker by the departmental authorities in favour of the respondents, we do not find any material on record to disturb those findings. As a result, the appeal filed by the Revenue is rejected.