Commissioner of C. Ex. Vs. Clad Material System

Commissioner of C. Ex. Vs. Clad Material System

SooperKanoon Citation : sooperkanoon.com/20565

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jan-23-2001

Reported in : (2001)(131)ELT249Tri(Mum.)bai

Appellant : Commissioner of C. Ex.

Respondent : Clad Material System

Judgement :

1. In the order impugned in this appeal, the Collector (Appeals) has held that galvanising or electro- plating of wires and strips, which the respondent does amount to manufacture so as to result in the emergence of a new and different commodity.

2. The Collector (Appeals) has been guided by the judgment of the Supreme Court in Gujarat Steel Tubes v. State of Kerala - 1989 (42) E.L.T. 513 that galvanising of tubes is not a process of manufacture and it does not change the essential characteristic of pipes or tubes, altering neither their structure nor their function.

3. The appeal questions this finding on the ground that galvanising and electroplating are different process and the ratio of the Supreme Court's judgment should not apply to a case of electroplating.

4. We are unable to agree. The processes are no doubt quite different.

However, the net result is the same, depositing of metal on a sheet or article of metal. In the case of galvanising the metal is deposited by dipping the article into molten metal and in the other electricity is employed to deposit a fine layer of metal on the article. The principle explained on the decision of the Supreme Court that galvanising does not result in emergence of any commodity, since it does not alter the form or structure of the commodity galvanised, would hold true in the case of electroplating too.

5. The appeal cites the example of heading 7215.30 of bars and rods of iron or non-alloy steel, plated or coated with zinc, apparently to say that plating or quoting of metal amounts to manufacture. It is not the words of the tariff that decide whether a particular process amounts to manufacture or not. That has to be decided in accordance with the definition of "manufacture" contained in Clause (f) of Section 2 of the [Act], and notes to any of its section or chapters. Adopting this ground in appeal would in effect mean negating the Supreme Court's judgment; galvanising is also plating or coating of metal.