

Commissioner of Central Excise, Vs. M/S Fibro Products

Commissioner of Central Excise, Vs. M/S Fibro Products

SooperKanoon Citation : sooperkanoon.com/21185

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-01-2001

Reported in : (2001)(134)ELT481Tri(Mum.)bai

Appellant : Commissioner of Central Excise,

Respondent : M/S Fibro Products

Judgement :

1. The question for consideration in this appeal by the department is whether the electroplating of copper wire undertaken by the respondent to this appeal amounts to manufacture and results in the product being classifiable under heading 85.39 of the tariff. In the order impugned in this appeal, the Commissioner (Appeals) has overruled the finding of the Assistant Commissioner that the process is one of manufacture, resulting in the emergence of a commodity classifiable under heading 8539.

2. The process undertaken by the respondent appears to have been considered as manufacture only for the reason that it resulted in the emergence of a commodity which was different from copper wire. The appeal does not question the finding of the Commissioner(Appeals) that the classification ordered by the Assistant Commissioner was without issue of a show cause notice. His finding that there is no material on the basis of which the Assistant Commissioner has concluded that the goods were to be used as prongs for the filament within an electric lamp and therefore classifiable under heading 85.39 as parts of such lamps is also not questioned. It is contended that The Assistant Commissioner had

gone through the process of manufacture and use of the product. His order however does not cite any material on the basis of which he has concluded that the goods are identical parts of electric lamps. Further, for the wire to become part of an electric lamp, it must have been cut to size and shape so that it was solely or principally to be use only in that lamp. Copper wire in running length can have any number of uses, and it cannot be classified s a part of electric lamp solely on the basis of one of its possible uses. We therefore see no reason to interfere.

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