

Rubco Vs. Commissioner of Central Excise,

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-08-2002

Reported in : (2002)(142)ELT387TriDel

Judge : S Kang, a T V.K.

Appellant : Rubco

Respondent : Commissioner of Central Excise,

Judgement :

1. Applicants filed this application for waiver of duty of Rs. 22,86,665/- and penalty of equal amount under Section 11AC of the Central Excise Act and penalty of Rs. 5 lakhs under Rule 173Q of Central Excise Rules.

3. Applicants are engaged in the manufacture of articles of vulcanised rubber. The applicants claimed the classification of the articles of vulcanised rubber under Chapter Heading 4016.19 of the Central Excise Tariff. The Revenue classified the same under Headings 8414.92 and 8419.90 of Central Excise Tariff as parts of Compressor and Refrigerators.

4. The contention of the applicant is that as per Section Note I(a) of Section XVI of Central Excise Tariff, the Chapter 84 or 85 does not cover the "Other articles of a kind used in machinery or mechanical or electrical appliances or for other technical uses of unhardened vulcanised rubbers. Applicants have also relied upon the decision of the Tribunal in the case of T. Maneklal v. Collector of Central Excise,

Ahmedabad, reported in 2000 (120) E.L.T. 717 (Tribunal). In this case the Tribunal held that rubber belts manufactured from unhardened vulcanised rubber are classifiable under Chapter 40 of the Central Excise Tariff irrespective of the fact that they are required in Textile Industries as an essential part of Textile machine or machinery. In view of the above Chapter Note and the decision of the Tribunal, we find, prima fade, the balance of convenience is in favour of the applicants. Therefore, the pre-deposit of whole of the duty and penalty isjyaived for hearing of appeal. To come up for arguments on 5-4-2002.

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