Commissioner of C. Ex. Vs. Rex Rubber Works

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SooperKanoon Citation : sooperkanoon.com/28265

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-21-2002

Reported in : (2002)(145)ELT573Tri(Mum.)bai

Judge : J Balasundaram, S T S.S.

Appellant : Commissioner of C. Ex.

Respondent : Rex Rubber Works

Judgement :

1. The issue in dispute in the above appeal of the Revenue is the correct classification of moulded plastic wheels; manufactured by the respondents herein - whether under Central Excise Tariff sub-heading 3926.90 as articles of plastic as claimed by the manufacturers or under CET sub-heading 8716.00 as parts of trailers and semi-trailers and other vehicles not mechanically propelled as contended by the department.

2. We have heard both sides. The HSN Explanatory notes under Heading 87.16 (page 1441) makes it clear that only wooden or steel wheels and parts thereof identifiable as parts of trolley, trailers etc. fall under Chapter 87. Further Note 2(b) to Section XVII under which Chapter 87 is covered makes it very clear that the expression "parts" does not apply to parts of general use of plastic. The Commissioner (Appeals) has given a categorical finding that the wheels manufactured by the respondents herein are not iron or wooden but are of plastic and further they are used for trolleys, for moving the baggage, in toys, in furniture

etc. This finding on fact has not been controverted by the department in appeal before us. Therefore, there is no ground to interfere with the order of the Commissioner (Appeals). Hence, we uphold the same and reject the appeal.