Commissioner of C. Ex. and Cus. Vs. A.K. Patel and Co.

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SooperKanoon Citation : sooperkanoon.com/29342

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Nov-13-2002

Reported in : (2003)(153)ELT157Tri(Mum.)bai

Judge : K Usha, N T C.N.B.

Appellant : Commissioner of C. Ex. and Cus.

Respondent : A.K. Patel and Co.

Judgement :
1. In this appeal at the instance of the Revenue, the only issue to be considered is whether the broken and damaged concrete poles arising in the manufacture of PSC poles by the respondent is leviable to duty. The Commissioner (Appeals) has taken the view that the damaged poles are non-excisable as waste and scrap and no duty would be leviable.

According to the Revenue, the broken and damaged poles should come under Heading 68.07 which covers "all other articles of stone, plaster, cement, asbestos, mica or of similar materials not elsewhere specified or included".

2. We do not find any merit in the contention raised by the revenue.

The broken poles cannot be described as articles. We, therefore, affirm the finding of the Commissioner (Appeals) and dismiss the appeal.