Commissioner of Central Excise Vs. Krystal Polyfab Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Nov-13-2002

Reported in : (2003)(156)ELT292Tri(Mum.)bai

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

Appellant : Commissioner of Central Excise

Respondent : Krystal Polyfab Ltd.

Judgement :

1. This appeal is directed against an order dated 14-10-97 passed by the Commissioner (Appeals). The issue raised is whether Draw Twisted Yarn is leviable to duty before 16-3-95.

2. Commissioner (Appeals) took the view that for the first time Draw Twisted yarn came to be specifically covered under Chapter Heading 5302.49 in 1995. The Commissioner took the view that Chapter Note 3 introduced by 1995-96 Budget also specifically stipulated that the process of twisting amounted to manufacture. Notification 36/95-C.E., dated 16-3-95 stipulates specifically the tariff value for Polyester Filament Yarn textured or twisted. Prior to 16-3-95 the tariff value was fixed only for textured and non-textured polyester filament yarn.

On the above view the Commissioner (Appeals) disagreed with the Assistant Commissioner and held that such yarn was not leviable to duty prior to 16-3-95.

3. Admittedly the respondent herein gets duty paid yarn and carries out only the process of twisting. The above activity was not treated as "manufacture" before 16-3-95. Under these circumstances, we find no reason to take a different view from that taken by the Commissioner (Appeals).

4. We, therefore, find no merit in this appeal. The appeal stands dismissed.