Commissioner of Customs Vs. Carbon Everflow Ltd.

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SooperKanoon Citation : sooperkanoon.com/29434

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Nov-22-2002

Reported in : (2003)(155)ELT154Tri(Mum.)bai

Judge : K Kumar, S T C.

Appellant : Commissioner of Customs

Respondent : Carbon Everflow Ltd.

Judgement :

1. We have heard Shri M.H. Shaikh, learned J.D.R. for the Revenue and Shri Jagesha, Consultant for the Respondent. The issue relates to Classification of the impugned.goods under sub-heading 2708.11 claimed by the respondent and under sub-heading 2708.19 claimed by the department. The learned J.D.R. states that the Commissioner (Appeals) has not taken into account the test report from I.I.T. and SAIL. He points out that the I.I.T. report is not categorical and it says that the sample is either wholly coal tar distillates or blended products and the SAIL report states that the softening point is 106 Degree Celsius which indicates that the impugned goods are hard pitch rather than blended product. As such, he states that the product is classifiable under Heading 2708.19. Shri Jagesha, learned Consultant defends the order, passed by the Commissioner (Appeals) in favour of the respondent. He has also produce (certificate) from the suppliers in Japan and Spain.

2. After hearing rival submissions and the case records, we find that the Commissioner (Appeal) has not passed a speaking order after taking into account the test reports. She also seems to have taken into account specifications from the manufacturers in South Korea whereas the imports are of Japanese and Spanish origin. She also states that the I.I.T. report confirms the product to be a Wended product beyond any shadow of doubt whereas the said report is not categorical. We are, therefore, convinced that the issue requires re-examination and we, therefore, remand the case back to the Commissioner (Appeal) for deciding a fresh and passing a speaking order after taking into account the rival submissions. The department's appeal is allowed by way of remand.