Commissioner of C. Ex. Vs. Razdan Group

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SooperKanoon Citation : sooperkanoon.com/29687

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Dec-20-2002

Reported in : (2003)(154)ELT278Tri(Mum.)bai

Judge : S T Gowri, G Srinivasan

Appellant : Commissioner of C. Ex.

Respondent : Razdan Group

Judgement :

1. The question for consideration in this appeal is the classification of the goods described as clicking dyes that the respondent manufactured. The assessee classified these goods in heading 8453.00 of the tariff. The department was of the view that they should be correctly classifiable in heading 8208.00. The Assistant Collector found that the classification claimed by the assessee was correct and dropped the notice proposing classification in heading 8208.00. On an appeal filed by the department from this order, the Commissioner (Appeals) declined to interfere. Hence this appeal by the Commissioner.

2. Heading 8208 is for knives and cutting blades, for machines or for mechanical appliances. Heading 84.53 is for machinery for preparing, tanning or working hides, skins or leather or for making or repairing footwear or other articles of hides, skins or leather, other than sewing machines.

3. In his order, the Commissioner (Appeals) has found that the Clicking dies were manufactured out of clicking knives which were imported in running length. It is given a shape of a shoe sole and used to cut leather into this shape. He has found from the submissions that the assessee made and the literature that has been produced, clicking knives are used in the clicking press. After examining the sample and the process of manufacture, he has found that the clicking dyes are used in a clicking press for making footwear and is correctly classifiable in heading 8453.

4. The challenge to this finding is that heading 8453 comprises only machines for preparing, tanning or working hides, skins or leather but does not include blades and knives. Heading 8208.00 is more specific for knives. Reliance is placed upon the Explanatory Notes to the tariff. It is further contended that similar goods on importation are classified in heading 8208.90.

5. We do not find that the Explanatory Notes to the Harmonised System of Nomenclature supports the appellant's case. The Note to heading 8453 explains that the heading includes machinery for making or repairing footwear or other articles of hides, skins or leather. The notes provides these include machines for cutting out leather in particular shapes e.g. shoe upper, glove blanks etc. The two most common types are band and knife machine and the clicking press (which cuts out by use of dyes). The machines in which the clicking die is used falls in this heading. The Commissioner (Appeals) finding that the clicking die is used in the clicking of press has not been challenged in the appeal.

The notes to the heading say that subject to the general provisions regarding classification of parts "parts of the machines of this heading and dies and other interchangeable tools for these machines are also classified here." We do not find any of the notes to Section XVI, which contained the general provisions for classification of parts applicable for classification of these foods. They would therefore rightly be classifiable as parts of machine in heading 8543 under that heading.