

Suncity Threads Ltd. Vs. C.C.E.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-29-2003

Judge : S Kang, a T V.K.

Appellant : Suncity Threads Ltd.

Respondent : C.C.E.

Judgement :

1. Appellants filed this appeal against the adjudication order passed by the Commissioner of Central Excise, whereby the demand was confirmed and penalty was imposed on the ground that the appellants were not entitled for the benefit of exemption notification.
2. Appellants were purchasing doubled or multifold yarn falling under chapter 55 of the Central Excise Tariff on payment of duty. Such yarn was either in hank form or on cone. Yarn in hank form was rewinded to come through winding machines and thereafter reeled into reel-tube and were packed and marketed.
3. The contention of the appellants is that this process does not amount to manufacture. The contention of the appellants is also that they were not engaged in doubled or multifold or single yarn and the facility for doubled or multifold yarn is also not available in their factory. The appellants relied upon the decision of the Tribunal in the case of C.C.E. v. M/s . Anand Threads (Final Order No. 1/2003-B dated 27.12.2002).

4. The contention of the revenue is that sewing thread cleared by the appellant is a product different from the yarn, from which it is made and the cost of the new product was higher than the original yarn. As the appellants were transferring the yarn into a new product, this activity of transferring amounts to manufacture.

5. We find that in the present case, the demand is for the period from 1.3.94 to 17.5.95 and w.e.f. 26.5.95, a Chapter Note was introduced in Chapter 55, which provides that the conversion of any form of yarn into another form of yarn amounts to manufacture. During the period, in question, there was no such chapter note. Therefore, the contention of the revenue that activity undertaken by the appellants amounts to manufacture, is not sustainable. Further, we find that in a similar situation, the Tribunal in the case of C.C.E. v. Anand Threads (Final Order No. 1/2003-B dated 27.12.2002) held that the process of reeling/rewinding of yarn does not amount to manufacture. In view of the above decision of the Tribunal, the impugned order is set aside and the appeal is allowed.

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