

**Telco Ltd. Vs. Cc**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

**Decided On :** Aug-22-2003

**Judge :** J Balasundaram

**Appellant :** Telco Ltd.

**Respondent :** Cc

**Judgement :**

1. The appellants herein had imported Epple 37 Sealant the Thinner in August, 1996. The goods were treated as consumer goods and in the absence of specific import licence valid for such items in the Negative List in the Exim Policy, 1992-97, the Asstt. Commissioner of customs confiscated the goods with option to redeem the same on payment of fine in addition to duty. The Commissioner (Appeals) upheld the order of the Adjudicating authority; hence this appeal by the importer.

2. I have heard both sides. The goods are used for industrial application in the vehicle factory of the importer in the manufacture of Heavy Duty Engines and Turbines. The imported goods are Heat Resisting Sealing Compound along with Thinner which offers high resistance against hot oils and hot cooling liquid due to novel raw materials. The claim of the appellants is that they are appropriately classified under Customs Tariff Heading 38.14 allowed under Free IMport category and are not consumer goods as they do not directly satisfy human needs but are only used for industrial application.

3. I find that the authorities below have only gone by the packing of the goods (small packing or consumer packing) to hold that the goods fall under entry No. 3814.00.09.10 of the ITC (HS) 1992-97 which covers goods under sub-heading 38.14 of a kind classified as consumer goods which are restricted items. On the other hand, the appellants have clearly explained that the packing alone is not determinative of the basis question as to whether the goods satisfy the definition of consumer goods. I have gone through the write up of the goods which was submitted by the appellants to the Asstt. Commissioner and the technical literature which clearly shows that the goods are for industrial application hence satisfying industrial needs and not human needs. Therefore, I agree with the appellants that the goods are not consumer goods requiring specific import licence but are allowed for import under Free Import category under entry No. 38.14.00.90.90 of the ITC(HC) classification. I, therefore, set aside the impugned order and allow the appeal.

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