Century Rayon Vs. the Commissioner of Central

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SooperKanoon Citation : sooperkanoon.com/32762

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-22-2003

Judge : S T S.S.

Appellant : Century Rayon

Respondent : The Commissioner of Central

Judgement :
1. The issue in this appeal is the eligibility under Rule 57Q as capital goods to a manufacture of Rayon yarn the following items :- "... i) Lead sheets, the appellants submit that Rayon yarn is manufactured by chemical transformation of natural organic polymers-cellulose. In this process acidic chemicals like caustic soda, sulphric acid and other chemicals are used. Rayon yarn machinery which is made of steel can not withstand the chemical reaction in Rayon yarn manufacturing process. The machinery is therefore lined with lead sheets which are corrosion resistant to chemical reaction. The lead sheets as such or after cutting are lined on the Rayon spinning machinery which falls under excise chapter heading 8445.00 and the same is specified for eligible capital goods under Rule 57Q. ii) Glass Tubing: the appellants submit that glass tubings are used as such or after converting in glass funnel are the essential part of Rayon yarn spinning machine and guide the movement of yarn. The appellants further submit that tubes and pipe fitting thereof are specified capital goods under sr. No. (8) of the table given under Rule 57Q of The Central Excise Rule, 1944, " 2. The item at sr. No. (i) above is entitled following the decision of the Commissioner of Central Excise v.

Mordia Chemicals Ltd. 2002 (147) ELT 645 for such cladding materials. As regard serial No. (ii). There is no material on record to rebut the finding of essential nature of the glass item being claimed by the appellants. The finding of it being for maintenance cannot be upheld since use of glass items can only be replacements parts and not for maintenance purposes. Parts are eligible.

3. This appeal is therefore allowed after setting aside and the impugned order.