Commissioner of Central Excise Vs. Rahul Rubber (P) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-17-2003

Reported in : (2004)(167)ELT50TriDel

Judge : A T V.K., P Bajaj

Appellant : Commissioner of Central Excise

Respondent : Rahul Rubber (P) Ltd.

Judgement :

1. In this appeal the Revenue has challenged the validity of the impugned order-in-appeal vide which the Commissioner (Appeals) has allowed the benefit of exemption Notification No. 18/95-C.E., dated 16-3-1995 to the respondents.

2. The learned SDR has contended that the benefit of above said notification which provides NIL rate of duty on plates, blocks, sheets and strips of micro-cellular or non-cellular rubber could not be extended to the respondents as they had failed to use the same for the manufacture of soles, heels or soles and heels combined for footwear.

Therefore, the impugned order deserves to be set aside.

3. On the other hand, the learned Counsel has reiterated the correctness of the impugned order.

4. We have heard both sides and gone through the record. The respondents are engaged in the manufacture of goods, such as, rubber hose pipes, rubber sheets etc. There is no material on the record to suggest if the goods cleared by them were not meant for making heels and soles for footwear. The plea of the Department that the goods cleared by the respondents were diverted by their buyers for repairing footwears and on that account there had been violation of the condition by them, in our view, had been rightly not accepted by the authorities below. The condition stipulated in the above said exemption notification is that, the goods must be used in the manufacture of soles, heels or soles and heels combined for footwear. It is not the case of the Department that the goods so cleared by the respondents were not used in the manufacture of soles/heels for the footwears. Even if it is taken that the goods were used by the buyers who purchased it from the dealers of the respondents for the repair of footwears, still it could not be presumed or inferred that the respondents have violated the condition of above said notification. The repair of the footwear, normally involves fixing of soles/heels to the defective footwear. The soles and heels are used normally for the manufacture/repair of the footwear. Therefore, the condition of the notification for claiming exemption stands fully satisfied as the goods cleared by the respondents had been utilized for the preparation of the soles or heels for the footwear. The impugned order passed by the Commissioner (Appeals) vide which he has affirmed the order of the adjudicating authorities does not suffer from any illegality. Both the authorities below have rightly, in our view, allowed the benefit of above said notification to the respondents and dropped the duty demand.