

Kleen-rite Enterprises Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-17-2004

Reported in : (2004)(94)ECC238

Judge : S Kang, M T K.D.

Appellant : Kleen-rite Enterprises

Respondent : Cce

Judgement :

1. Appellant filed this appeal against the Order-in-Appeal passed by the Commissioner (Appeals) whereby the washing machines manufactured by the appellant were held to be classified under heading 8450 of the Central Excise Tariff.

3. The contention of the appellant is that the washing machines manufactured by the appellant are not showing ordinary washing machines, and these machines are for industrial use and the majority of them are being used by textile processing houses and the machines were also cleared for use in the hotels and hospitals. The machines in question are used for bleaching, dyeing, disinfecting, starching, besides slow washing and rinsing etc. These functions of the machines are not disputed by the Revenue, therefore, the machines are classifiable under heading 8451 of the Central Excise Tariff which covers machinery (other than machines of 8450) of the washing, cleaning etc.

4. The appellant also submitted that the adjudicating authority wrongly quantified the duty. The clearance for the period 11.11.94 to 31.3.95 was of Rs. 11,53,050 and the adjudicating authority calculated the duty @ 10% and fixed the duty liability of Rs. 1,72,958 whereas 10% of Rs. 11,53,050 comes to Rs. 1,15,305. The applicant also pleaded that price was cum-duty price, therefore, they are entitled for the abatement of the duty from cum duty price in view of the decision of the Hon'ble Supreme Court in the case of Commissioner of Central Excise, Delhi v. Maruti Udyog Ltd., 5. The contention of the Revenue is that the appellants are marketing their machines as washing machine. Revenue relied upon the decision of the Tribunal in the case of Stefab (I) Ltd. v. Commissioner of Central Excise, Delhi, 2000 (120) ELT 86 to submit that the similar washing machines were held to be classifiable under sub-heading 8450 of the Central Excise Tariff.

6. In this case the dispute is regarding the classification of the washing machines manufactured by the appellant. The Revenue classified these washing machines under heading 8450 of the Central Excise Tariff whereas the appellant wants to classify the same under heading 8451 of the Central Excise Tariff. The contention of the appellant is that these are not ordinary washing machines and these are used by textile processing houses for treating textile articles for squeezing, starching and cleaning etc. and these machines are also used by hospitals and hotels for disinfecting articles of textiles. We find that the Tribunal in the case of Stefab (I) Ltd., (supra) after considering the same arguments, as raised in the present appeal, held that similar machines are classifiable under heading No. 8450 of the Central Excise Tariff.

7. We find that the machines, manufactured by the appellant, are traded in the market as washing machines as per their product literature. The ratio of the above decision relied upon by the Revenue is fully applicable to the facts and circumstances of the case. In view of the above decision of the Tribunal, we find no infirmity in the impugned order in respect of the classification of the washing machines manufactured by the appellant.

8. In respect of the quantification of duty, the appellant pointed out that in the adjudication order there is mistake in calculation of the duty for the period 11.11.94

to 31.3.95. In this period, the value of washing machine cleared were taken to be Rs. 11,53,050 and the duty payable is calculated @ 10%. The adjudicating authority held that duty payable is Rs. 1,72,958 whereas if the rate of duty is 10% then the duty in respect of value of clearance during this period comes to Rs. 1,15,305. In these circumstances, we find that the matter regarding quantification requires re-consideration by the adjudicating authority and while re-quantifying the duty, the adjudicating authority will also grant the abatement of duty from the cum-duty price as per decision of the Supreme Court in the case of Maruti Udyog Ltd. (supra). The appeal is disposed of as indicated above.

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