Commissioner of Central Excise Vs. Mutual Industries Ltd.

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SooperKanoon Citation : sooperkanoon.com/35284

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-18-2004

Reported in : (2004)(170)ELT434Tri(Mum.)bai

Judge : S T S.S., T Anjaneyulu

Appellant : Commissioner of Central Excise

Respondent : Mutual Industries Ltd.

Judgement :

1. The Revenue is in appeal against the order of classification of product 'chair base' and 'chair top' made out of plastics, arrived at by the Commissioner (Appeals) under Heading 9403 on the basis that heading to be providing more specific description for furniture of plastics and parts of the same.

2. After hearing the ld. DR being absent and considering that the definitions in CETA 1985 of Headings 9401 and 9403 are pari materia the defaulted in HSN and applying chapter notes of HSN under Heading 9401 stipulating that all sorts of parts of chairs such as seats, back, bottoms etc. would be covered under Heading 9401 and the notes under Heading 9403 providing that heading not to be covering furniture and parts thereof, covered by the previous headings, and finding that 9403 covers furniture for general use e.g. cupboards, show-cases, tables, writing stands, telephone stands etc. it is to be held that order of Commissioner (Appeals) that Heading 9403 covers plastic seats for chairs more specifically, cannot be upheld. It is well settled that the Explanatory Notes under HSN are to be applied

for arriving at under Central Excise Tariff Act, 1985. Chairs and parts thereof all sorts, are excluded from 9403 and are included only under 9401 and therefore in this view of the matter the Commissioner's order cannot be sustained. The order by the Commissioner is therefore set aside and Revenue appeal allowed directing the classification under 9401.