

Commissioner of Central Excise Vs. Power Build Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-31-2004

Reported in : (2005)(179)ELT109Tri(Mum.)bai

Judge : A Wadhwa, M T K.D.

Appellant : Commissioner of Central Excise

Respondent : Power Build Ltd.

Judgement :

1. The revenue appeal is directed against the order-in-appeal, whereby the respondent's appeal against the order passed by the Assistant Collector was allowed by the Commissioner (Appeals). The Assistant Collector classified the "endless belt with cleat" under chapter heading No. 4010.90 and confirmed the differential demand of Rs. 15,853/-. The Commissioner (Appeals) reversed the findings and hence the revenue's appeal.

2. We note that, the appellants obtain duly paid endless bells from the market and undertake the activities of fixing of "cleats" to the endless belt. The revenue was of the view that fixing of cleat to the endless bell is an activity of manufacture of endless belts under chapter heading No. 4010.90. In the ground of appeal it has been pleaded that in terms of instructions issued by the Board vide their Circular No. 99/6/87-CX-3 dated 9-3-87, the process of joining the ends to obtain endless belts would constitute "manufacture" under the Central Excise Law, inasmuch as, endless belts are covered under the Central Excise tariff Heading No. 4010.

4. We note that the issue is not that of a manufacture of endless belts, but is that of fixing "cleat" to the endless belts, which are purchased from the open market. There is no provision under the Central Excise Law to hold that fixing of cleats to endless belts would constitute a process of manufacture. Consequently, the revenue's appeal fails and the same is rejected.

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