Golden Laminates Vs. Cce

Golden Laminates Vs. Cce

SooperKanoon Citation : sooperkanoon.com/36475

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-10-2004

Reported in : (2005)(99)ECC255

Judge : J Balasundaram, Vice, A T V.K.

Appellant : Golden Laminates

Respondent : Cce

Judgement :

1. The issue in dispute is whether Special Excise Duty (SAD) of 8% is leviable on decorative printed paper imported by the appellants herein under Bill of Entry dated 2.6.98. The appellants' claim for refund of Rs. 2,47,508 representing 8% SAD has been rejected since the since the Bill of Entry was filed on 2.6.98 on which date SAD was imposed for the first time by insertion of Section 3A in the Customs Tariff Act, 1975, the goods are to be treated as having been imported on that date, namely, the date of filing of the Bill of Entry and therefore, SAD has been correctly paid. The contention of the appellants that the goods were imported on 12.5.98 was the IGM is of that date and therefore, the import has taken place prior to the levy of SAD, has been rejected.

2. The appellants have asked for a decision on merits. Hence we heard the learned DR and perused the records. We find that the Commissioner (Appeals) has rightly relied on the Apex Court decision in Golden Silk Mills v. UOI, 1999 (113) ELT 358 (SC) and UOI v. Apart Pvt. Ltd., 1999 (65) ECC 727 (SC): 1999

(112) ELT 23 (SC) for concluding that the import of goods into India would commence when the same cross into territorial waters but continues and it is completed when the goods become part of the mass of goods within the country and the taxable event is reached at the time when the goods reach the Customs barriers and the Bill of Entry for home consumption is filed. Therefore, he has correctly held that since on the date of import, namely 2.6.98, SAD was levied, goods were leviable to SAD and therefore, no refund arises.

3. In the light of the above, we uphold the impugned order and reject the appeal.