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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-29-1987

Reported in : (1989)(42)ELT267TriDel

Appellant : Coromandel Garments Ltd.

Respondent : Collector of Customs

Judgement :

1. The appellants imported a fabric printing machine which is described as Arcamatic Continuous Fabric Printing Machine Model C Mark 1. This machine prints by heat transfer process from paper.

2. On importation the goods were assessed under Heading 84.59(1). After clearing the machine on payment of duty the appellants applied for re-classification of the machine under Heading 84.40(1) and for consequential refund.

3. The Assistant Collector rejected the claim for refund on the ground that the machine is a paper transfer printing machine for transfer of dyestuff on wide variety of knitted fabrics but it is also used for lamination purpose and hence it is general purpose machine covered by Heading 84.59(1).

4. The Collector of Customs (Appeals) upheld the order holding that the imported machine was not used for printing a repetitive design on textiles. He also observed that the machine was not a calendering machine and hence the present appeal.

5. We heard Shri S.B. Rane, Chief Purchase Officer of the Appellants.

Shri Rane explained the functioning of the machine and showed us the transfer paper which is used to transfer the colour and design on to various fabrics. He referred to the observation of the Assistant Collector and submitted that the machine does not do any lamination. He pointed out that the write-up of the machine which was filed before the Assistant Collector stated that"... the Arcamatic Printing calenders are designed to work at speeds and temperatures, ensuring a satisfactory transfer of the dyestuffs on a wide variety of knitted fabrics such as double jersey, single jersey, woven fabrics and also laminates." Shri Rane submitted that according to their reading "and also laminates" means that transfer printing could be done on laminated material also and not that the equipment imported by them can be used for lamination purpose. On our questioning Shri Rane submitted that the machine is not capable of doing any lamination. The learned Representative of the appellants also showed that the designs on the transfer paper are of a repetitive nature and these designs are transferred to the surface of the textile etc. by this machine.

Therefore, the machine can give a repetitive design. Shri J. Gopinath, the learned SDR submitted that while the machine may not do lamination it cannot be denied that it only transfers the design on the paper and with one transfer the paper was exhausted.

6. We have given the matter out most careful consideration. The fact that a piece of transfer paper exhausts with one transfer does not mean that the machine is not capable of giving repetitive design. When sufficient quantity of transfer paper is put into the machine, the machine will go on giving repetitive design. The appellants have shown us some fabric pieces which had repetitive printing done with the help of this machine. We, therefore, feel that Heading 84.40(1) is specific for this machine and Heading 84.59 which is a residuary heading cannot apply. In the circumstances, we set aside the impugned order and allow the appeal with consequential relief to the appellants by re-assessing the same under Heading 84.40(1).