Commissioner of Customs Vs. thermon Heat Tracers Ltd.

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SooperKanoon Citation : sooperkanoon.com/39355

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jun-14-2005

Reported in : (2005)(187)ELT110Tri(Mum.)bai

Judge : J Balasundaram, Vice-, A M Moheb

Appellant : Commissioner of Customs

Respondent : thermon Heat Tracers Ltd.

Judgement :
1. The issue for determination in this appeal of the Revenue is whether royalty of 5% can be added to the value of imported component used by the importer/respondent in the manufacture of its products namely Heat tracing cables and Heat transfer cement.

2. We have heard learned SDR and perused the record. None appears for the respondents in spite of notice. We find that royalty is payable on indigenous value addition of the product. It cannot be added to the value of imported components. Reliance placed by the Revenue on the decision of the Apex Court in Pepsi Foods Ltd. v. Commissioner - 2004 (171) E.L.T. A129 (S.C.) is misplaced for the reason that the question before the Apex Court was the inclusion of royalty collected from bottlers on beverages manufactured from concentrate supplied by the assessee in the assessable value of the concentrates sold, and issue did not relate to addition of royalty to value of imported item. We, therefore, see no merit in the present appeal and accordingly dismiss the same.