

Cce Vs. Rotomac Electricals (P) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-28-2005

Reported in : (2005)(186)ELT557TriDel

Judge : S Kang, Vice, N T C.N.B.

Appellant : Cce

Respondent : Rotomac Electricals (P) Ltd.

Judgement :

1. The issue raised in this appeal of the revenue is the correct classification of various sheets of mica produced by the appellant.

Both Deputy Commissioner (Appeals) held that they would be classifiable under sub-heading 6807.00 (articles of mica). Still Revenue persists that the correct classification would be under heading 85.46 (electrical insulators).

2. During the hearing of the case, learned JDR has brought to our notice a decision of the Tribunal in the case of C.C.E, Aurangabad v.Isovolta (I) Pvt Ltd - 2001 (129) ELT 642 wherein a Division Bench of this Tribunal took the view that mica strip would be classifiable under heading 85.46. However, the learned Counsel for the assessee submits that the heading 85.46 is grossly inappropriate inasmuch as it is contrary to the wording of relevant tariff headings. He has taken in this connection to HSN Note to chapter 68 to show that mica in different forms like strips would be classifiable under 68.01 only.

Based on the material on record he has submitted that, in the form in which the items are cleared from the factory, they are only mica sheets. According to the Id. Counsel, further manufacturing is involved in making the mica sheets into insulators.

3. We are inclined to agree with the contention of the assessee.

However, since a co-ordinate Bench has taken a different view (2001 (129) ELT 642), the matter is required to be referred to the Larger Bench. Accordingly, registry is directed to place the matter before the Hon'ble President for the constitution of a Larger Bench.

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