

Standard Industries Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-24-2005

Reported in : (2006)(193)ELT476Tri(Mum.)bai

Judge : A Wadhwa, A M Moheb

Appellant : Standard Industries

Respondent : Cce

Judgement :

1. The issue pertains to valuation of trade samples of textile for free distribution to prospective customers to get the orders of processed fabrics.

2. The appellant's contention is that such trade samples have length of less than 50 cms and, therefore, should be considered as fents and the value declared for such fents should be the basis for assessment. The department's contention is that such trade samples constitute fabrics made out of the standard length and proportionate value of the standard fabrics should be ascribed to trade samples.

4. There are conflicting decisions on the issue of valuation of trade samples. The Tribunal in the case of Morarjee Goculdas Spg. & Wvg. Co.

Ltd., held that these trade samples of textile fabrics are akin to `fents' and `rags' and not bolts of goods quality textile and therefore the question of applying pro rata of good quality fabrics under Rule 4 of Central Excise (Valuation) Rules, 1975 does not arise. In contrast to this decision, the Tribunal in the case of the same

appellants in another appeal held that trade samples having been drawn from good quality fabrics, proportionate value of the goods fabrics should be adopted and not the value ascribed by the applicants. In yet another decision, the Tribunal in the case reported in 2003(56)RLT 187(Cestat-Mum) held that samples of cloth less than 15 cms in length cut from fine/standard quality cloth are not to be equated with fents and rags or cloth of standard length. The Tribunal held that the value has to be fixed somewhere between the value of standard length fabrics and fents and rags.

Holding so, the Tribunal remanded the matter. The Tribunal in another decision reported in 2004(64)RLT421 held that trade samples of textile fabrics up to 50 cms length is akin to fents/rags and therefore pro rata value of the good quality fabrics under Rule 4 cannot be adopted for the trade samples for assessment.

5. In view of conflicting decisions on the issue, we find that the matter has to be referred to a Larger Bench to resolve the conflict.

Accordingly, the Hon'ble President of CESTAT is requested to constitute a Larger Bench to decide the issue of valuation of textile trade samples.

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