Pedder Enterprises Vs. Commissioner of Central Excise

Pedder Enterprises Vs. Commissioner of Central Excise

SooperKanoon Citation : sooperkanoon.com/40472

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-05-2005

Judge : J Balasundaram, Vice-, A M Moheb

Appellant : Pedder Enterprises

Respondent : Commissioner of Central Excise

Judgement :

1. The appellants herein removed Ceramic Tableware falling under Chapter sub-heading 6910.00 of the Central Excise Tariff Act during the period 16-12-86 to 28-02-89 without showing the correct description of the goods in the classification lists filed with the proper officer and without determining the duty on the goods prior to their removal. Hence show cause notice proposing recovery of duty and proposing imposition of penalty was issued. The notice was adjudicated by the Deputy Commissioner, who confirmed the demand and rejected the claim of the appellants that the goods would fall for classification under CETA sub-heading 6909.10. He has also imposed a penalty of Rs. 20,000/- upon the appellants in terms of Rule 173Q of this Central Excise Rules. The Commissioner (Appeals) upheld the adjudication order; hence this appeal.

2. None appears for the appellants in spite of notice and hence we heard Ld. SDR and perused the records. As rightly observed by the lower appellate authority, the appellants had claimed the classification of their products under CETA sub-heading 6909.10 as Tableware, Kitchenware and other articles made up of porcelain or china and paid duty at the concessional rate under Notification No.

175/86 during the period in dispute. Immediately after the amendments of Notification No. 51/86 dated 10-2-86 by Notification No.89/89 dated 1-3-89 they claimed the classification of their goods under CETA sub-heading 6910.00 as made up of ceramic so as to avail exemption of whole of duty. This clearly shows, in spite of being fully aware that the products manufactured by them fall for classification under CETA sub-heading 6909.00 as made up of ceramie, they wrongly availed concessional rate of duty during the period involved in the present case. Therefore, we uphold the duty demand. Penalty is also warranted for the reason that they knowingly misdeclared their products for the purposes of availing of benefit of concessional rate of duty, which was not otherwise available to them.

Therefore, the penalty is also sustained.