Orient Press Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Dec-02-2005

Judge : A Wadhwa, S T S.S.

Appellant : Orient Press Ltd.

Respondent : Cce

Judgement :

1. The issue involved in the present appeal is the classification of Aluminium Foils backed on both sides with printed polyester film.

2. After hearing the appellants duly represented by Shri R. Nambirajan, Ld. Advocate and Shri K.M. Mandal, Ld. Consultant representing the revenue, we find that the issue is no more res-integra and stands settled by the earlier decision of the Tribunal, relied upon by the appellants.Sharp Industries Ltd. v. CCE, Mumbai-III In this case, it has been held that Aluminium Foil of thickness not exceeding 0.02 mm sandwiched between films of polyester and polyethylene and articles (Pouches) thereof classifiable under Chapter 39 of Central Excise Tariff Act, 1985 since it is the plastic that confers the essential characteristics of the product-Rule 3(b) of the Interpretative Rules.

Note : Appeal against this decision is presently pending in the Supreme Court as Reported in 2001 (128) ELT Part-1 Page No. A-64.

2. India Foils Ltd. v. CCE, Calcutta-II In this case, it has been held that Aluminium Foil Pouch used as container for containing tobacco, coffee powder etc. is classifiable under heading 76.12 of the Central Excise Tariff.Paper Products Ltd. v. CCE, Mumbai In this case, it has been held that Backed Aluminium Foil Pouches is classifiable under subheading 7616.90 as other articles of Aluminium.

4. CCE, Calcutta-I v. India Foils Ltd. In this case, it has been held that Aluminium Foil backed on one side with printed Polyester Film and on the other with High Density Polyethene HDPE Film is classifiable under sub-heading 7607.60 and not under sub-heading 3920.39 of the CET.Betts India Ltd. v. CC, Goa 2002 (50) RLT 473 (T) : 2002 (100) ECR 26 (T) In this case, by applying Rule 3(c) of the Interpretative Rules, the Tribunal has held that the product in question is classifiable under Chapter 76. It has not followed the decisions in Sharp Industries case and India Foils Ltd. case.

6. Commissioner v. R.T. Packaging Ltd. CEGAT Order No. 59/2002-B dt.

12.2.2002 Appeal against this order has been dismissed by the Supreme Court on the ground that the Department has accepted the judgment of the Tribunal in the case of CCE, Calcutta v. India Foils Ltd. .

3. Inasmuch as the issue is settled,we set aside the impugned order and allow the appeal filed by the appellants with consequential relief by holding that the case in question are properly classifiable under Chapter 76 of the Central Excise Tariff Act, 1985.