

**Stp Ltd. Vs. Commissioner of Customs (i)**

**Stp Ltd. Vs. Commissioner of Customs (i)**

**SooperKanoon Citation :** [sooperkanoon.com/41749](http://sooperkanoon.com/41749)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

**Decided On :** Feb-08-2006

**Judge :** K Kumar, S T S.S.

**Appellant :** Stp Ltd.

**Respondent :** Commissioner of Customs (i)

**Judgement :**

1. Heard both sides, in this appeal filed by importer. The core issue involved is the question of classification of 10,000/- metres of 'Elotene W 3000'. The applicants seek to classify the goods under heading 3919.90 while the goods were found to be self adhesive bitumen/asphalt membrane protected with film used for water proofing of surfaces. Therefore they were proposed a different classification under heading 6807.10 by the lower authorities. Duty demands and penalty was therefore confirmed.

2. On verification of the catalogue, it is found that it specifies the total thickness of film as 1.5 mm, the bituminous compound constituting 1.4 mm and the film on which it is coated is 0.1 mm of thickness.

Applying the pre-dominant composition test for classification of a product, the goods are held to be appropriately classifiable under heading 6807. The plea for classification under chapter of plastics, as plastic film is not upheld. The confiscation considering the ITC Policy under 6807 is upheld as arrived under Section 111(d) as goods thereunder require an import license which was not

produced.

3. However the perusal of the orders does not indicate how the redemption fine found has been arrived at Rs. 25 lakhs and a penalty of Rs. 25,000/- has been imposed. Keeping in mind the value of the goods declared and that this was a first import as well as for a claim for classification penal action cannot be upheld the penalty is required to be set aside and redemption fine also reduced to Rs. 1.5 lakhs in the facts and circumstances of this case. Appeal partly allowed in above terms.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**