Commissioner of Central Excise Vs. Percision Components

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-07-2006

Judge : S T Chittaranjan, T Anjaneyulu

Appellant : Commissioner of Central Excise

Respondent : Percision Components

Judgement :
1. Heard both sides. The issue relates to classification of Cement capsules manufactured by the respondents. The respondents have claimed classification under sub-heading 2502.29 whereas the department's claim is for classification under sub-heading 2502.90. The lower authorities (both original and appellate) have accepted the claim of the respondents and have classified the goods under sub-heading 2502.29.

Shri S.S. Bhagat, learned S.D.R. appearing for the department states that the Board had issued a circular dated 31-12-1998 on a representation of M/s. Mine Aid Products classifying the impugned goods under sub-heading 2502.29. However, he points out that the said circular was withdrawn and a new circular has been issued on 18-10-2000 classifying the very same product under subheading 2502.90 based on a chemical examination report of the Chief Chemist which has been reproduced in the grounds of appeal filed by the department.

2. Shri Prakash Shah, learned advocate appearing for the respondents states that in the case of Mine Aid Products, the issue had come before the Tribunal earlier

and in its decision reported at , the Tribunal has decided to classify the product under sub-heading 2502.29. He further states that in the said case the department has accepted the classification of the product as ordered by the Tribunal and no appeal was filed and also the subsequent assessments have been done under the heading approved by the Tribunal. Hence, he prays for upholding the decisions by the lower authorities.

3. After considering arguments from both sides and perusal of case records including the cited case law, we are of the view for the classification of the impugned goods is squarely covered by the cited decision of the Tribunal. No submission has been made by the department to the effect that the said decision has been reversed by a higher judicial forum. As such, following the said decision of the Tribunal in the case of Mine Aid Product, we uphold the impugned order-in-appeal passed by the lower appellate authority and reject the department's appeal.