

Commissioner of C. Ex. and Cus. Vs. Shrijee Heavy Projects Works Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Apr-17-2006

Judge : A Wadhwa, A T K.K.

Appellant : Commissioner of C. Ex. and Cus.

Respondent : Shrijee Heavy Projects Works Ltd.

Judgement :

1. After hearing Shri C. Lama Id. JDR and Shri S.B. Awate Id.Consultant, we find that the dispute in the present appeal of the Revenue is as regards the classification of big crystal sugar/sugar candy.

2. Both the authorities below have held the said product sugar candy as falling under Heading 1701.39, as against the Revenue's claim of classification under Heading 1704.90. While dismissing the appeal filed by the Revenue, Commissioner (Appeals) observed as under : - The submission and the goods for review have been considered by me carefully. In view of Deputy Chief Chemist, Mumbai's Test Reports No. CEX/17-AD-64/95/11, dated 6-3-96, the product Sugar Candy/Bura Sugar satisfies the definition of the Note (2) to Chapter 17 which explains sugar means any form of sugar in which the sucrose content if expressed as a percentage of the material dried to constant weight at 1058 would be more than 90. As explained by the respondents, process of manufacturing contains only dissolving of sugar in water and re-crystallization in big grain sugar.

Explanatory Note to Chapter 17.04 covers sugar preparations. Which means addition of some other ingredients to form a new product.

Since there is not addition of any other ingredients the 'Sugar Candy', will not qualify for classification under Ch. 1704. From the physical verification as well as chemical test reports though 'Sugar Candy' is big crystal sugar, it cannot be said as sugar preparation or any other commodity from sugar and therefore the said goods are rightly classifiable under CSH No. 1701.39. The grounds put forth by the review authority was not in order and maintainable. In the premises I do not find any reason for interfering with Order-in-Original passed by the adjudicating authority. The departmental appeal is accordingly rejected.

As against above, the Revenue has again advanced the same reasoning as noted by the authorities below.

3. We find that the issue is no more res integra and stands decided by the Tribunal decision in the case of Commissioner of Central Excise, Aurangabad v. MB. Chemicals Pvt. Ltd. vide Order Nos.

A/1599-1600/WZB/2005/C-III, dated 25-7-05, 2006 (197) E.L.T. 259 (Tribunal) laying down that large sized sugar crystals are not classifiable under Heading 1704, inasmuch as the same cannot be considered as confectionary. Inasmuch as, the issue stands decided, we find no infirmity in the view taken by the authorities below and reject the appeal filed by the Revenue.

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