Commissioner of Central Excise Vs. Dinesh and Co.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Nov-03-2006

Judge : J Balasundaram, Vice, A T K.K.

Appellant : Commissioner of Central Excise

Respondent : Dinesh and Co.

Judgement :
2. The facts of the case are, the respondents M/s Dinesh & Co were manufacturing and clearing Tata tie pins/service pins' 25 and 35 made of silver and gold respectively and classified them as articles of silver/gold under Chapter Heading 7101.70 & 7101.90 respectively and claimed exemption under notification 4/97 dated 1.3.97 claim a nil rate of duty. This has been upheld by Commissioner (Appeals). Revenue is in appeal against this order.

3. Ld D.R. submits that as per proviso 7(a) of Chapter Heading 71 under Section XIV pins or service pins made of silver and gold are classifiable under heading 7101.40 as an article of jewellery. Tie pin is not an article of jewellery and exemption under notification 4/97 was applicable only to articles of silver or gold ornaments, the same was not applicable to tie pins in view of the fact that as per Explanation to notification 4/97 ornaments has been defined as articles for personal adornment or for adornment of any idol, deity or any other object of religious worship. Since tie pins cannot be considered as an article of personal adornment which are generally worn on parts of body, the same cannot be considered as an ornament and hence ineligible for exemption.

4. The Ld Advocate for the respondent submits that though the goods have been described as tie pins, they are in the nature of articles of gold/silver as it can be used on any clothing and therefore they are not in the nature of tie pins. Sample of the tie pins was also shown to us.

5. We have considered the submissions. From the sample shown to us, we find that it was essentially in the nature of tie pins and nothing else as its main purpose was for use as a tie pin to be affixed on a tie. It cannot therefore considered as an article of silver. Therefore the exemption under notification 4/97 cannot be extended to them.

6. Revenue's appeal is accordingly allowed and impugned of the Commissioner (Appeals) is set aside.