

Commissioner of Central Excise Vs. Ivp Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-31-2008

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

Appellant : Commissioner of Central Excise

Respondent : ivp Ltd.

Judgement :

1. We have heard both sides on the appeals filed by the Revenue against the classification of ceramic nozzles manufactured by the respondents herein under heading 8515.00 of the Central Excise Tariff Act, 1985, setting aside the demand confirmed by the Assistant Commissioner on the basis of classification of the goods under sub heading 6901.00 of the Central Excise Tariff Act, 1985. NTB Hitech Ceramics v. CCE holding that the goods fell for classification under sub heading 8515.00 is no longer good law as it has been overruled by the Larger Bench of the Tribunal in the assessee's own case as seen from 2004 (173) ELT 128 (Tri.-LB) in which it has been held that ceramic nozzles are classifiable under Chapter heading 69.01 of the Central Excise Tariff Act, 1985. Although the decision of the Larger Bench of the Tribunal in the above case has been challenged before the Apex Court, the operation of the Larger Bench decision has not been stayed. Therefore, following the ratio of the decision of the Larger Bench of the Tribunal cited supra, we uphold the demand which is result of classification under chapter heading 69.01 of the Central Excise Tariff Act, 1985 and allow the appeals of the Revenue.

