

Collector of Central Excise Vs. Unitac Industries

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-18-1994

Reported in : (1994)(71)ELT836TriDel

Appellant : Collector of Central Excise

Respondent : Unitac Industries

Judgement :

1. This is an appeal filed by the Department against the impugned order dated 16-7-1993 passed by the Collector of Customs and Central Excise (Appeals), Bangalore.
2. When the matter had come up for final hearing none appeared for the respondents but we find that there was a request from them to decide the case on merits based on their cross-objection.
3. The point to be considered in this case is whether "Cloth based self-adhesive tapes" for industrial use is classifiable under Chapter sub-heading 5909.00 as claimed by the party or under sub-heading 5906.90 as contended by the Department.
4. It was submitted by the party in their Cross-Objection that this issue has been finally decided by the Tribunal in their own case for a different period as per Order No. E/150/93-D, dated 21-4-1993 [1994 (70) E.L.T. 141 (Tri.)] wherein contention of the party was accepted holding that product in question is classifiable under

sub-heading 5909.00. It was submitted that no further appeal has been filed by the Department against the said order. It was also pointed out therein that the impugned order in this case was passed by the Collector (Appeals) following the ratio of the decision of the aforesaid case as per Order No. E/150/93-D, dated 21-4-1993.

5. Since the issue has already been considered by the Tribunal in the very party's case, learned Departmental Representative preferred to reiterate the stand taken by the Department.

6. We have considered the matter. Since the issue has already been considered in the very party's case as pointed out by both sides, we are not inclined to take a different view on this issue. Following the ratio of the precedent we hold that item in question is classifiable under Chapter Heading 59.09 of the Central Excise Tariff Act, 1985 and, accordingly, the appeal filed by the Department is hereby dismissed.

Cross-Objections are also disposed of accordingly.

7. The operative portion of this order was already pronounced in the open Court on the conclusion of the hearing on 7-3-1994.

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