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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-04-1994

Reported in : (1994)(71)ELT832TriDel

Appellant : Collector of Central Excise

Respondent : Ramchand Choithram Sons

Judgement :

1. The issue in this appeal filed by the Department against the order of the Collector of Central Excise, Bombay-I No. V-Adj (23A) 15-1/81, is of classification of moulded optical lenses. The assessee claimed their classification under Item 68 as goods not elsewhere specified in the tariff. The Department however has opted to classify the goods as article of glass and glassware under Item 28A(4) of Central Excise Tariff.

2. On hearing the learned Senior Departmental Representative Shri M.K.Jain and on perusal of the written submissions of the respondents, we find that their claim that the issue is already settled in their favour by the Tribunal's order No. E/522/90-D, dated 12-7-1990, is correct.

The Tribunal's order disposes of the appeal by the respondents herein against the very same order of the Collector. In that order, the Tribunal has held that the goods in question, is correctly classifiable under Tariff Item 68 and not under Tariff Item 23A(4). In view of this position, nothing survives in the Department's present appeal before us which is only on the question of limitation arising out of the

situation, if, the goods are classified under Tariff Item 23A(4) as has been held by the Collector in the impugned order. Since, however, the classification has been already held in favour of the respondents herein, no question of demand would arise. The appeal is, therefore, dismissed accordingly.

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