Panjab Wool Combers Ltd. Vs. Collr. of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-06-1994

Reported in : (1994)(71)ELT844TriDel

Appellant : Panjab Wool Combers Ltd.

Respondent : Collr. of Central Excise

Judgement :

1. These two appeals arise out of the same impugned order of Collector (Appeals). The issue is whether scoured wool is an excisable commodity assessable to duty under Item 68 C.E.T. In the proceedings initiated against assessee/appellants, Punjab Wool Combers, the Assistant Collector of Central Excise, Ludhiana, held scoured wool is classifiable under Item 68 CET and confirmed demand of duty thereon. On an appeal against the Assistant Collector's order the Collector (Appeals) held that scoured wool has a distinct name, character and use from greasy wool from which it is produced and he correctly classified as excisable goods under Item 68 CET. But the Collector (Appeals) found that the demand for duty was barred by limitation as the show cause notices had been issued beyond six months under Section 11A Central Excises and Salt Act and that evidence on record showed that the assessee could not be said to have suppressed facts from the Department. Punjab Wool Combers are now in appeal against the Collector (Appeals') order on classification and the Collector of Central Excise, Chandigarh is dissatisfied with the Collector (Appeals') findings on limitation.

2. On hearing Shri T.R. Tandon, ld. Consultant for Punjab Wool Combers and Smt. Shanti Sundaram, ld. S.D.R. for appellant Collector, we find that the consistent plea of Punjab Wool Combers has been that the process of removal of greasy matter with hot water, soap, etc. does not bring about any kind of transformation. They have urged that wool continues to remain in its material form as sheered from the body of sheep and that consequently, scoured wool is not a product arising out of a process of manufacture and hence not excisable. The Deptt., however, has taken a view contra as formulated in the Order-in-Appeal.

However, we find that there is evidence to show that the Department's own understanding is that tariff item for raw-wool covers scoured wool also. Circular F. No. 525/8/85-Cus. TU of the Central Board of Excise & Customs dated 23-7-1985 is as follows : "I am directed to say that question of classification of scoured wool was examined in the Board.

The matter was examined against the background of the scheme of classification in the CCCN. As the classification in our Tariff follows CCCN, the scope of the merged reading in our Tariff, unless otherwise specifically clarified, is same as the sum-total of the individual headings in the CCCN. Classification in the CCCN could be one of the guiding factors for determining classification under our Tariff. Heading 53.01/05(2) covers wool raw, as also wool tops.

Viewed against the background of the scheme of the CCCN, the term 'wool raw' should include sheep's or lamb's wool not carded or combed given in the Heading 53.01 of CCCN. The Explanatory Note in regard to this item clarifies that scoured wool is wool from which the grease has been removed almost entirely by washing with hot water and soap or other detergents or with alkaline solutions.

Therefore, wool, raw as given in our Tariff should cover scoured wool also. The Chief Chemist has referred to the ASTM, which describes wool, raw as wool or hair of sheep in the greased, pulled or scoured wool. It further goes on to say that scoured wool, even though it is no longer in its original raw state, is generally accepted as raw wool. Therefore, it can be held that Item 53.01/05(2) covers scoured wool.

This clarification is issued for the proper interpretation of the Notification No. 64/85-Cus., dated 17-3-1985." In such a situation, the claim of Punjab Wool Combers that no new excisable product emerges out of removal of grease from raw wool by scouring has to be accepted. Accordingly, the appeal filed by Punjab Wool Combers is allowed. The appeal filed by the Collector of Central Excise, Chandigarh is rejected. Operative portion of the order announced in Court.