

American Spring and Pressing Vs. C.C.E.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-27-1995

Reported in : (1996)(83)ELT567TriDel

Appellant : American Spring and Pressing

Respondent : C.C.E.

Judgement :

1. These are cross appeals. Appeal No. E/1065/86-D is by the assessee M/s. American Spring & Pressing Works Ltd. and Appeal No. E/2807/86-D by the Revenue.

2. The issue involved in the present appeals is classification of various types of parts of agricultural implements. The Additional Collector in his impugned order has classified 10 items out of the 18 items under the erstwhile Tariff Heading 52 and the remaining 8 items under Tariff Item 68. The respective appeals have been filed against that part of the order which is against them. Shri R.K. Jain, Id.

Consultant appeared on behalf of the assessee M/s. American Spring and Pressing Works Ltd. and submitted that in the impugned order-in-original the Additional Collector has recorded the contrary findings. At internal page 3 of the order he has stated that the samples could not be procured as the assessee did not supply the same whereas at page 4 he has stated that he has seen samples of 17 items out of 18 items which according to the department fall under Tariff Item 52. He submitted that it is not clear as to which of the samples of 17 items were

seen or who provided the same. In this premise both sides submitted that the case be remanded for de novo adjudication after giving effective and reasonable opportunity of personal hearing to the assessee.

3. Considered. In view of the above we remand the case to the Assistant Commissioner of Central Excise having jurisdiction in the matter. On receipt of the papers he would inspect the parts of the agricultural implements in dispute and the assessee would assist in this regard.

4. In the result the impugned order-in-original is set aside and the case is remanded as aforesaid to the Assistant Commissioner of the Central Excise having jurisdiction of the matter, i.e. Bombay -II.

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