Apollo Tyres Ltd. Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-16-1996

Reported in : (1996)LC66Tri(Delhi)

Appellant : Apollo Tyres Ltd.

Respondent : Collector of Central Excise

Judgement :

1. This appeal is directed against Order-in-Original No. 116/87, dated 1-9-1987. The issue relates to classification of waste products like scrap rubber, rubber components, flap, tyres and tubes arising during the course of manufacture of tyres and tubes under the old tariff.

2. Arguing for the appellants, Shri Mahesh Sharma, Sr. Manager of the Company submits that the issue is fully covered in their favour by judgment of Delhi High Court reported in case of Modi Rubber v. U.O.I.-1987 (29) E.L.T. 502 which was subsequently upheld by the Hon'ble Apex Court. He also submits that Tribunal in its order reported in case of C.C.E. v. Dunlop India Ltd. -1988 (36) E.L.T. 349 also held that the waste arising during the course of manufacture would not qualify as manufactured product and hence not goods.

3. Arguing for the Revenue, ld. DR submits that in the case reported in 1987 (30) E.L.T. 313 (Tribunal) Tribunal held that such scraps would be dutiable.

4. We have heard both sides. We find that Delhi High Court in case of Modi Rubber Ltd. held that such scrap cannot be considered as goods.

Tribunal in case of Dunlop India (supra) also held that such wastes are not goods. They distinguished the earlier order of the Tribunal reported in -1987 (30) E.L.T. 313 on the ground that the case was decided prior to Delhi High Court's decision being brought to their notice, Dunlop India Ltd. decision of the Tribunal has now subsequently been approved by Hon'ble Apex Court vide Court Room High Lights reported in 1995 (79) E.L.T. A205.

5. In the result, in view of the ratio of this judgment we hold that such wastes were not dutiable during the material period under the old Tariff.