Otis Elevator Co. (i) Ltd. Vs. Collector of Customs

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SooperKanoon Citation : sooperkanoon.com/9556

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-27-1996

Reported in : (1996)(86)ELT146TriDel

Appellant : Otis Elevator Co. (i) Ltd.

Respondent : Collector of Customs

Judgement :

1. The above appeal arises out of the order of the Collector of Customs (Appeals) upholding the rejection of the appellants' refund claim by the Dy. Collector of Customs, Refund Department. The claim for reassessment of toothed tape for lifts manufactured by the importers/appellants under Heading 84.22 against Heading 73.33/40(1) of CTA, 1975 was rejected on the ground that the imported goods are nothing but endless belt of metal which is excluded from Chapter 84 by virtue of Note 1(h) to Section XVI of CTA, 1975. The appellants' claim that the toothed tape is an integral part of lifts and has already acquired the character of components of lifts and hence classifiable under Chapter 84.

2. None appeared on behalf of the appellants, inspite of notice for today's hearing having been issued to them on 26-4-1996, hence, we heard the learned DR and perused the records.

3. The imported goods are toothed tapes of steel in running length. The appellants have not been able to substantiate their claim that the item is ready for fitment in lifts, even though they have stated in their memo of appeal that it had all the

specially required properties and characteristics of lift machinery. It has not been disputed that the toothed tape is used as endless belt by joining two ends after cutting the tapes to required size and hence applying Note 1(H) to Section XVI of the CTA, 1975, which excludes endless belts o(sic) metal from the coverage of Chapter 84, classification under Chapter 84 is ruled out.

The original assessment under Heading 73.33/40 (1) "as other articles or iron and steel not elsewhere specified" is more appropriate. Hence, we, therefore, see no reason to interfere with the impugned order, uphold the same and reject the appeal.