

Peninsula Polymers Ltd. Vs. Commr. of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Tamil Nadu

Decided On : Aug-02-1996

Reported in : (1997)(89)ELT192Tri(Chennai)

Appellant : Peninsula Polymers Ltd.

Respondent : Commr. of Central Excise

Judgement :

1. The plea in the appeal is for benefit of Notification No. 339/86 in respect of the plastic sheets which are manufactured by the appellants in rectangular and square forms. These sheets are used by the appellants for manufacture of blood-bags. The plea is that these sheets are component parts of the blood-bags.
2. The learned Advocate for the appellants has pleaded that for the reason of the use of these sheets for the manufacture of the blood-bags this should be considered as part of the blood-bags and the benefit of exemption should be accorded to them.
3. The learned JDR for the Department has pleaded that the wording of the notification does not lend to the interpretation that the articles in the form of square or rectangular shapes should be eligible for the benefit of notification as these can neither be considered as parts or accessories of blood-bags and at best this can be considered as raw materials out of which blood-bags are manufactured.

4. A perusal of the notification shows that the benefit is available in respect of medical and surgical instruments and apparatus and parts and accessories thereof of the description specified in the schedule to the notification. Serial No. 32 is claimed to be one under which the appellants' goods are covered. This Serial No. covers plastic bags for preserving blood and its components. The item therefore, covered is plastic bags which are used for preserving blood and the components of blood. The learned Sr. Advocate Shri Ramachandran wanted us to read the notification to be covering the components of the plastic bags also in it. We are afraid the description is for plastic bags which answer to a particular end-use i.e. for preserving blood and its components i.e.

the components of blood. The learned Advocate pleaded that the sheets were rectangular plastic sheets which are used for manufacture of bags.

These are in the nature of only raw materials which are further processed to make them into blood-bags by fitment of other necessary items. These sheets by no stretch of imagination can be considered as parts or accessories of the blood-bags. In the above view of the matter we hold that the benefit of this notification is not available as claimed by the appellants.

5. As to the classification of the goods the same has not been posed as an issue before us by either of the two sides and therefore, we are not adverting to the same. At this stage the learned Advocate pleaded that the Modvat credit in respect of the duty paid on these sheets should be made available to them. We observe that the learned lower authority should consider the grant of Modvat credit to the appellants in accordance with law. Since the duty is being demanded now this factor should be taken into consideration for the purpose of grant of Modvat credit. With the above observations the appeal is dismissed.

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