

Jindal Industries Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-12-1996

Reported in : (1996)(88)ELT171TriDel

Appellant : Jindal Industries

Respondent : Collector of Central Excise

Judgement :

1. This is an appeal against the order-in-original passed by Collector of Central Excise & Customs, Chandigarh, dated 24-6-1987.
2. Learned counsel stated that the only issue which survives for consideration is classification of elastic rail clips.
3. This issue has already been settled by a Larger Bench decision of the Tribunal in its Final Order Nos. E/315-316/95-B1, dated 24-5-1995 [reported in 1996 (81) E.L.T. 628 (Tribunal)] and they will be abiding by this decision.
4. Learned DR drew attention towards the order-in-original and stated that he would like to point out in particular that initially the appellants had filed the appeal with reference to two items (1), ginning machinery parts and (2), elastic rail clips. The Larger Bench decision cited by the learned counsel covers only elastic rail clips and therefore, learned counsel may clarify the position with reference to ginning machinery parts.

5. Learned counsel, in reply, stated that he has already moved an application to the effect that he is not pressing the appellants' claim with reference to ginning machinery parts. Therefore, we are concerned here with this case only i.e. elastic rail clips which has been settled by the aforesaid decision.

6. We find that the issue of classification regarding the rail clips has already been settled by the Larger Bench decision cited above in which it has been held inter alia, that they were not classifiable under Tariff Item 68 during the relevant period and were more appropriately classifiable under Item 26AA(ia)/25(B). As regards the ginning machinery parts, the appellants are not pressing their view point. In other words, partly the Department succeeds and partly the appellants. The Department's demand is required to be modified accordingly and re-calculated in terms of the ratio of the aforesaid decision. Hence, looking to the totality of facts and circumstances, we consider it appropriate to reduce the penalty from Rs. 10,000/- (Rupees ten thousand only) to Rs. 2,000/- (Rupees two thousand only). The appeal is disposed of in the above terms.

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