

Customs, Excise and Gold Tribunal - Mumbai

Pidilite Industries Ltd. vs Commissioner Of Customs on 3 January, 2006

Bench: S T Chittaranjan, T Anjaneyulu

ORDER Chittaranjan Satapathy, Member (T)

1. Heard both sides. The applicants imported drawings and designs from their foreign collaborator. The import was by way of courier baggage. Subsequently, Show Cause Notice dated 24-10-1997 was issued seeking recovery of Customs Duty leviable on the drawings as classified under sub-heading No. 4911.99 of the CTA read with subheading 4901.90 of the CETA. The Show Cause Notice was subsequently amended by way of a corrigendum dated 30-4-1998 whereby the classification under the Customs Tariff was changed to sub-heading 9803.00 of the CTA. Consequently demand of duty was increased from Rs. 35,956/- to Rs. 2,16,892/-. The Commissioner after hearing the importers has confirmed the duty on contested goods as per the revised classification resulting in the present appeal,

2. We find that the in the very first Show Cause Notice itself the extended period of limitation was invoked hence by issue of the corrigendum later on, within the extended period of 5 years, the appellants have not been put to any extra disadvantage in relation to the extended period of limitation available to the department. The appellants have imported drawings and designs through courier baggage and remitted foreign exchange for the same without declaring the value of the impugned goods to the customs at the time of import. At the material time of import in October 1994, there was no exclusion for courier baggage till amendment of the Chapter Note 4 to Chapter 98 in 1995 excluding courier baggage from the scope of Chapter 98, As such, the impugned goods have been rightly classified under Heading 98.03 by the Adjudicating Commissioner. As such, we uphold the duty demand of Rs. 2,16,892/- confirmed in the impugned order. Our view is supported by the decision of the Hon'ble Supreme Court in the case of Associated Cement Companies Ltd. v. Commissioner of Customs - wherein it has been held that prior to 26th May, 1995 (vide Paras 60 to 64 of the said decision), the impugned goods were classifiable under Heading 98.03 and chargeable duty applicable to such goods under the same heading. We note that as regards the penalty, the adjudicating Commissioner himself has taken a lenient view and has not imposed any penalty.

3. Appeal is rejected.

(Pronounced in Court on 3-1-2006)