
(2015) 09 SC CK 0033

In the Supreme Court Of India

Case No : Civil Appeal No. 4201 of 2006.

**Commissioner of Customs, Bangalore - Appellant @HASH Elgithread
(India) Ltd.**

Date of Decision : 02-09-2015

Acts Referred:

Citation : (2015) 324 ELT 645 : (2015) 16 SCC 686

Hon'ble Judges : A.K. Sikri and Rohinton Fali Nariman, JJ.

Bench : Division Bench

Advocate : S/Shri A.K. Panda, H.K. Naik, Ajay Sharma and B. Krishna Prasad, Advocates, for the Appellant; S/Shri M.P. Devanath, Vivek Sharma, S. Vasudevan, Hemant Bajaj, Anandh K., Aditya Bhattacharya, R. Ramachandran and Ms. L. Charanya, Advocates, for the Respondent

Final Decision : Disposed Of

Judgement

1. We have heard learned counsel for the parties at length.
2. To state in brief, certain goods were imported by respondent (hereinafter referred to as the "assessee"), namely, Tyre Scanner K2 type separation and Tread Porosity System and Software for Scanner K2. The dispute of classification of these goods arose. As per the department the goods were to be classified under Chapter Heading 90.31 whereas the assessee contended that the appropriate classification would be under Chapter Heading 90.27. The Tribunal has decided the issue in favour of the assessee [2006 (199) E.L.T. 486 (Tri. - Bang.)].
3. We have gone through the impugned order passed and do not find any error therein. Otherwise also, the tax effect is only Rs. 7,18,919/-. However, insofar as refund of the aforesaid amount is concerned, the matter is remitted back to the Adjudicating Authority to consider as to whether the tax effect was passed on by the assessee to the consumer or not and based thereupon, the issue of refund be decided keeping in view the principle laid down in Commissioner of Central Excise, Chennai-III v. Grasim Industries [2015-TIOL-64-SC-CX = 2015 (318) E.L.T. 594 (S.C.)]. The appeal is disposed of accordingly.