(2024) 12 KL CK 0088

In the High Court Of Kerala

Case No : Writ Petition (C) No.8778 Of 2018

M/s Autofit Car Interiors APPELLANT

Vs

Union Of India RESPONDENT

Date of Decision : 27-12-2024

Acts Referred:

Citation : (2024) 12 KL CK 0088

Hon'ble Judges : Harisankar V. Menon, J

Bench : Single Bench

Advocate : M.Gopikrishnan Nambiar, K.John Mathai, Joson Manavalan, Kuryan Thomas, Paulose C. Abraham, Suvin R. Menon, Dennis Varghese, Arun Kumar P

Final Decision : Disposed Of

Judgement

Harisankar V. Menon, J

1. The petitioner, stated to be engaged in the business of manufacturing car seat covers and also exporting them, has filed this writ petition aggrieved by the refusal to extend certain benefits claimed by it under the Merchandise Exports from India Scheme (MEIS).

2. The Government of India came out with MEIS pursuant to the foreign policy 2015-20 so as to promote the export of notified commodities which were manufactured within the country. As per the afore Scheme, the petitioner contends that it was eligible for certain rewards at various percentages of the export realization value. The list of products which were eligible under the afore Scheme was also notified. The petitioner contends that under table 2 of Appendix 3B of the MEIS as notified, Serial No. 4558 read as under:

S.No

HS Code

ITC(HS) Code

Description of goods

MEIS - Reward Rate (in %)

Country Group Code A

Country Group Code B

Country Group Code C

(1)

(2)

(3)

(4)

(5)

(6)

(7)

4558

87089900

Otr Prtsandaccssrs Of Vhcls Of Hdg

8701-8705

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It is the contention raised by the petitioner, that the car seat covers manufactured by it, come under HS code 87089900 and hence eligible for the benefit under the Scheme.

3. The petitioner states that it had filed various applications claiming that it is eligible for the benefit under the Scheme; however, those applications seeking benefit under the above-referred entry were rejected, taking the view that the products exported and the ITC (HS) was not tallying/not correct. The findings contained in Ext. P24 dated 08-01-2018 issued by the 4th respondent herein were as under;

"In this connection, it is informed that your request was examined by this Directorate and it was observed that though motor vehicle/car falls under Chapter 87 there is no apparent logic for car seat cover to be included under Chapter 87 as Car seat covers are essentially made ups and therefore should fall under Chapter 63, if it is of textiles or chapter 42, if it is made of leather."

The petitioner has filed the captioned writ petition, in the afore circumstance seeking a declaration that it is entitled to the benefits under the MEIS under HS code 87089900 as notified above.

4. I have heard Sri. Raj Kannan, the learned counsel for the petitioner and Sri.Suvin R. Menon, the learned Central Government Counsel for the respondents.

5. The short issue arising for consideration in this writ petition is as regards the entitlement for the benefit under the MEIS. There is no dispute as regards the benefits available under the Scheme. The dispute is only regarding the goods exported. The petitioner had obtained registration as an SSI unit with reference to car seat cover and steering cover, made up of textile fabrics and cotton handloom fabrics. As against the above, the respondents contend that the car seat covers are essentially made up of textile fabrics and hence should fall under Chapter 63. Chapter 63, it is true, is with reference to made-up textile articles. However, the question to be considered is, merely for the reason that the car seat covers are made-up textile articles, will they fall out of the classification under HS Code 87089900?

6. In Mehra Brothers V. Joint Commercial Officer [(1991) 1 SCC 514], the Apex Court considered the question as to whether car seat covers are accessories to motor vehicles. After referring to the dictionary meaning of the term "accessory", the Apex Court found that car seat covers or upholstery is "accessories as an addition; an adjunct; an accompaniment for comfortable use of the motor vehicles or for elegance to the seat". The Court also noticed that the items concerned were being sold as "automobile parts". The very same question with reference to the Central Excise Tariff Act has come up for consideration before the Customs, Excise and Gold (Control) Appellate Tribunal in Guru Overseas Pvt Ltd. v. Collector of Central Exercise, New Delhi [2000 (120) E.L.T 209(Tribunal)]. The CEGAT followed the judgment of the Apex Court in Mehra brothers (supra) and found that the seat covers are used for comfort and convenience and sleek look and hence, they are accessories of car seats.

7. Thus, with reference to the Sales Tax and Central Excise levies, the question was addressed, holding that even if the seat covers are being made up of textile fabric, in so far as they are used as an addition/accompaniment for the motor vehicle, they are accessories of the Motor vehicle/car seat. It is also noticed that the afore findings of the CEGAT were accepted by the Central Exercise Department, which is produced as Ext.P17. Similarly, the Director General of Foreign Trade has also accepted the afore classification as seen from Ext.P20. Likewise, Ext.P25 communication is issued by the 6th respondent, accepting the classification as seat covers as covered under 87089900 irrespective of whether made up of textile or not. While issuing Ext.P25, the orders of CEGAT referred to above are seen relied on.

8. From all the above, I am of the opinion the petitioner's products, which are exported as above are to be classified under serial No. 4558 having HS

87089900 as contended by it. I also notice the judgment of the Apex Court in M/s.Hindustan Ferodo Ltd. V. The Collector of Central Excise, Bombay [(1997) 2 SCC 677], wherein it was held that the onus to prove a different classification than the one claimed by the petitioner is on the department. In the case at hand, the petitioner, as noticed above, have made a valid classification with reference to the judgments rendered on the point and no valid reasons are pointed out by the respondents to contend otherwise.

On the whole, I am of the opinion that the petitioner is entitled to succeed. Resultantly, the impugned orders/proceedings by which the benefit under the Scheme stood denied to the petitioner, would stand set aside. It is declared that the petitioner is entitled to the benefit under the Scheme with reference to Sl.No.4558 having ITC(HS)Code 87089900.

The writ petition is disposed of as above.