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(2008) 05 SC CK 0012

In the Supreme Court Of India

Case No : Civil Appeal No. 223 of 2003

N.G.P. Industries Ltd. APPELLANT

Vs

Commissioner of Central Excise, Jamshedpur RESPONDENT

Date of Decision : 07-05-2008

Acts Referred:

Citation : (2012) 279 ELT 4

Hon'ble Judges : Dalveer Bhandari, J;Ashok Bhan, J

Bench : Division Bench

Advocate : Alok Yadav and Tara Chandra Sharma, for the Appellant; K. Radhakrishnan, S.D. Sharma and P. Parmeswaran, for the Respondent

Final Decision : Allowed

Judgement

1. The point in dispute is regarding the correct classification of slagwool and rockwool manufactured by the Appellant. According to the revenue, the goods manufactured by the Appellant are classifiable under sub-heading 6803.00 of the Central Excise Tariff Act, 1985 (for short 'the tariff Act') whereas claim of the Assessee is that the goods manufactured by it are classifiable under sub-heading 6807.10 of the tariff Act. The contending entries as were in existence at the relevant time read:

68.03 Slagwool/rockwool and similar mineral wools.

68.07 - Goods, in which more than 25% by weight of redmud, press-mud or blast furnace slag or one or more of these materials, have been used' all other materials of stone, plaster, cement, asbestos, mica or of similar materials, not elsewhere specified or included.

Tribunal by its impugned order [2003 (152) E.L.T. 414 (Tribunal)] has decided the appeal in favour of the revenue on merits as well as on the question of limitation and held that the goods manufactured by the Appellant will fall un-der sub-heading 6803.00. Hence, Assessee is in appeal before us.

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2. Counsel appearing for the Appellant has brought to our notice that there was a conflict of opinion between different benches of the Tribunal regarding correct classification of the slagwool and rockwool and noticing the conflict between the different benches, the matter was referred to a Larger Bench of the Tribunal in the case of Commissioner of Central Excise, Raipur v. Punj Star Insulation Fibre Company which gave its decision in favour of the Assessee holding that the goods manufactured by the Appellant are classifiable under sub-heading 6807.10. The decision of the Larger Bench is reported in 2004 (170) E.L.T. 43 (Tri.-LB). Admittedly, revenue did not file any appeal against the decision of the larger Bench and the same has attained finality. In view of this, we accept this appeal; set aside the impugned order of the Tribunal and it is held that the slagwool and rockwool manufactured by the Appellant would be classifiable under sub-heading 6807.10. Since, we have decided the appeal on merits, we need not go into the question of limitation. No costs.

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