(2000) 02 SC CK 0058

In the Supreme Court Of India

Case No : Leave Application 1, Civil Appeal and 4994 of 1999

Sintex Industries Ltd. APPELLANT

Vs

Commissioner of Central Excise RESPONDENT

Date of Decision : 04-02-2000

Acts Referred:

Citation : (2000) 69 ECC 463 : (2000) 117 ELT 536 : (2001) 10 SCC 92

Hon'ble Judges : D. P. Mohapatra, J;B. N. Kirpal, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. The only question which arises for consideration in this appeal is with regard to the proper classification of ice-boxes.

2. The CEGAT, by the impugned order had come to the conclusion that the proper classification of ice-boxes was under Heading 94.03 as furniture. It appears that as far as the Collector's appeal was concerned he had classified the ice-boxes under the Heading 39.24 which related to "Tableware, Kitchenware, other household articles and toilet articles of plastics". The appellant herein wanted the ice-boxes to be classified under the Heading 39.26 which relates to builder's ware of plastics not elsewhere specified or included.

3. After hearing counsel for the parties it appears that under no circumstances iceboxes can be classified as furniture. It has no attribute of a furniture as commonly understood. On the other hand, it is a household article in which ice is kept for the purposes of use. In our opinion, therefore, the Collector's appeal was right in classifying ice-boxes under Heading 39.24. We, therefore, hold that the order of the Tribunal classifying it under Heading 94.03 is hot correct and the proper classification is 39.24.

4. The Tribunal had disposed of the appeal by classifying the ice-boxes under Heading 94.03. It did not consider the other contentions which had been raised before it by the appellant. In view of the fact that the decision of the Tribunal is

being set aside, it will be appropriate for the Tribunal to consider the other contentions which had been raised by the parties. We, therefore, remand the case to the Tribunal for decision on the other questions raised before it. The appeal is disposed of. No costs.

