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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2386 OF 2006

COMMISSIONER OF CENTRAL EXCISE, PANAJI

... Appe

llant

VERSUS

M/S. M.R.F. LTD.

... Resp

ondent

O R D E R

cation/

The respondent-assessee herein filed classifi

declaration for two products viz., (1) Dipped Tyre Cord Warp Sheet and (2) Rubberised Tyre Cord Warp Sheet.

It had

earlier claimed the classification for these two items under Chapter Heading 5902.10 of the Central Excise Tariff Act. However, it was reclassified under Chapter Heading 4005.90.

t item

The assessing authority classified the firs

under Heading 5902.10 and the second item under

Heading

5906.99 and charged the duty accordingly. The resp

ondent

preferred appeal against the said order befor

e the

Commissioner of Central Excise (Appeals). The Commissi

oner

(Appeals) allowed the appeal on the ground that the case was covered by the judgment of the Tribunal in 'MRF Ltd. v. CCE, Goa & Chennai' [1999 (80) ECR 398 (Tribunal)].

The

Department preferred appeal thereagainst which ha

s been

dismissed by the Customs, Excise and Service Tax Appellate

Signature Not Verified

Digitally signed by Gulshan Kumar Arora

Date: 2015.08.27

17:30:21 IST

Reason: Tribunal (hereinafter referred to as CESTAT) observing that

C.A. No. 2386/2006 1
the aforesaid judgment of the Tribunal has been upheld by
this court in 'CCE, Goa & Chennai v. MRF Ltd.' [2005 (180)
ELT 145(SC)].

We find that the aforesaid observations of the CESTAT
are incorrect inasmuch as this Court in MRF case (supra) had
remitted the case back to the Commissioner and had not
decided the appeal in favour of the assessee. Be that as it
may, we are of the opinion that in the instant case, it is
not even necessary to remit the case back because of the
reason that the classification as made by the Department has
been accepted by the assessee and the assessee is even
paying the duty on the basis of the said classification.

We, thus, set aside the order of the CESTAT and
maintain the classification as settled by the Department.
The appeal is allowed accordingly.

....., J.
[A.K. SIKRI]

....., J.
[ROHINTON FALI NARIMAN]

New Delhi;
August 19, 2015.

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COURT NO.13

SECTION III

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 2386/2006

COMMISSIONER OF CENTRAL EXCISE, PANAJI

Appellant(s)

VERSUS

M/S. M.R.F. LTD.

Respondent(s)

Date : 19/08/2015 This appeal was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE A.K. SIKRI

For Appellant(s)

Mr. A. K. Sanghi, Sr. Adv.
Mr. Arijit Prasad, Adv.
Mr. Shankar Divate, Adv.
Ms. B. Sunita Rao, Adv.
Mr. B. Krishna Prasad, Adv.

For Respondent(s)

Mr. K. V. Mohan, Adv.
Mr. K. R. Nambiar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed order.

(Nidhi Ahuja)
COURT MASTER

(Renu Diwan)
COURT MASTER

[Signed order is placed on the file.]