

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1991 OF 2006

M/s. Pragati Silicons (P) Ltd.

....Appellant

Versus

Commissioner of Central Excise, Panchkula

....Respondent

(With Civil Appeal No.3248 of 2006)

J U D G M E N T

DR. ARIJIT PASAYAT, J.

1. These two appeals are directed against the judgment of the Customs Excise and Service Tax Appellate Tribunal, New Delhi (in short ‘CESTAT’). Two issues were raised before the Tribunal; one related to the excise classification and the other related to the exemption claimed in regard to nameplate, emblems and logo of plastic manufactured by M/s

Pragati Silicons (P) Ltd. (hereinafter referred to as the ‘assessee’), while appellant claimed classification under Heading no.87.08 and 87.14 (parts and accessories of motor vehicles) along with exemption in terms of notification no.15/94 as amended, Revenue with reference to the products in Heading no.39.26 (articles of plastic). CESTAT referred to an earlier decision in the assessee’s case and held that Chapter 39.26 should be correct heading. This part of the decision is questioned by the assessee in CA No.1991/2006. So far as the claim of exemption is concerned, the Tribunal took the view relying on an earlier decision in the case of N.M. Nagpal Pvt. Ltd. v. CCE (2001) 130 ELT 359 that the exemption is available to the assessee. That part is challenged by the Revenue in Civil Appeal No.3248 of 2006.

2. Learned counsel for the assessee placed reliance on the decision in the assessee’s case in Civil Appeal No.5445 of 2001 decided on 26.4.2007 (2007) 211 ELT 534 (SC) holding that the plastic name plates are “parts and accessories” of motor vehicles and since they are not excluded from Section XVII, the appropriate classification is under Headings 87.08 and 87.14.

3. Learned counsel for the Revenue, on the other hand, relied on a decision of this Court in Commissioner of Central Excise, Delhi v. N.M.

Nagpal (P) Ltd. (2008 (222) ELT 486 SC) remitting the matter to the Tribunal for a fresh decision. CESTAT has relied upon this decision.

4. In view of the aforesaid decisions we think it appropriate to remit the matter to the CESTAT to consider the afresh taking into account both the decisions referred to above.

5. The appeals are accordingly disposed of.

.....J.
(Dr. ARIJIT PASAYAT)

.....J.
(ASOK KUMAR GANGULY)

New Delhi,
March 25, 2009