

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I
COD APPLICATION No.E/COD/70191/2017
CROSS APPLICATION NO.E/CORSS/70190/2017
In APPEAL No.E/70075/2016-EX[DB]**

(Arising out of Order-in-Appeal No.MRT/EXCUS/000/247/APPL-I/2015-16 dated 30/09/2015 passed by Commissioner (Appeals-I), Central Excise, Meerut)

**Principal Commissioner, Customs, Central Excise & Service Tax,
Meerut** **...Appellants**

Vs.

M/S B.D. Mahajan & Sons Pvt. Ltd. **...Respondents**

Appearance:

Shri Mohd. Altaf, Assistant Commissioner (AR), for Appellant
Shri Ankur Jain (Adv.) for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing/ Decision : 07/12/2018

FINAL ORDER NO.72891 / 2018

Per: Anil G. Shakkarwar,

Present appeal filed by Revenue is directed against
impugned Order-In-Appeal No.
MRT/EXCUS/000/247/APPL-I/2015-16 dated
30/09/2015 passed by Commissioner (Appeals-I),
Central Excise, Meerut.

2. We have heard learned AR for the Revenue and
learned advocate Shri Ankur Jain for the respondent. We
have also gone through the record of the case and the

written submissions filed by the respondent in the form of cross-objection. We note that learned Commissioner (Appeals) has allowed the benefit to the respondent on limitation holding that the respondent did not have any intention to evade payment of duty and confirmed the demand for the normal period of limitation. The revenue has challenged the said order contending that the learned Commissioner (Appeals) has erred in allowing the benefit of extended period to the respondent. Revenue has also contested dropping of penalty by the learned Commissioner (Appeals).

3. After hearing both the sides, we note that the issue involved in the present appeal is in respect of classification of Gloves used in 'Wicket Keeping' and 'Batting' in the game of cricket. The contention of Revenue is that the said goods are classifiable under Chapter 42 whereas the respondent has claimed the classification of the same under Chapter 95.

4. We note that the issue is no more *res-integra* and is settled by the decision of this Tribunal in the case of M/s Sanspareils Greelands Pvt. Ltd. V/s CCE & ST, Meerut decided through Final Order No.70605-70606/2016 dated 28.07.2016, where in this Tribunal had held that in view of classification of Gloves by Central Board of

Excise & Customs through notification issued for the purpose of fixing drawback rate, the same goods were classified under Chapter 95 and therefore, they are classifiable under Chapter 95 and that Revenue could not change its stand. We, therefore, do not find any merits in the ground of appeal raised by Revenue. It was classified by the learned Advocate appearing for respondent that the respondents have not challenged the confirmation of payment for the normal period though they have filed the cross-objection. We, therefore, do not find any merit in the appeal filed by Revenue. The same is rejected and the Order-In-Appeal is not interfered with. The cross-objection and condonation of delay application for cross-objection stands disposed.

(Pronounced & Dictated in Court)

Sd/-
(Anil G. Shakkarwar)
Member (Technical)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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