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Commissioner of Customs, Chennai Vs Toyota Tsusho Pvt. Ltd.

Civil Appeal No. 1642 of 2008

Court: SUPREME COURT OF INDIA

Date of Decision: Nov. 24, 2015

Citation: (2015) 326 ELT 638

Hon'ble Judges: A.K. Sikri and Rohinton Fali Nariman, JJ.

Bench: Division Bench

Advocate: S/Shri V. Lakshmikumaran, M.P. Devanath, S. Vasudevan, Ms. L. Charanaya, Hemant Bajaj and Anandh K., Advocates, for the Respondent; S/Shri Yashank Adhyaru, Senior

Advocate, Ms. Nisha Bagchi, Vikas Singh, Ms. Pooja Sharma and B. Krishna Prasad,

Advocates, for the Appellant

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

1.The respondent/assessee herein imported ""beef leather cut pieces set TFC 235 Set"" and mentioned the same at Serial Nos. 1 and 9 of the Bill of

Entry dated 5-9-2005 which was filed by the assessee on the aforesaid import. The goods were classified under Customs Tariff Heading 4115 20

90 for which duty free exemption was claimed under Notification No. 21/2002 (Serial No. 149). The Department, after examining the goods, took

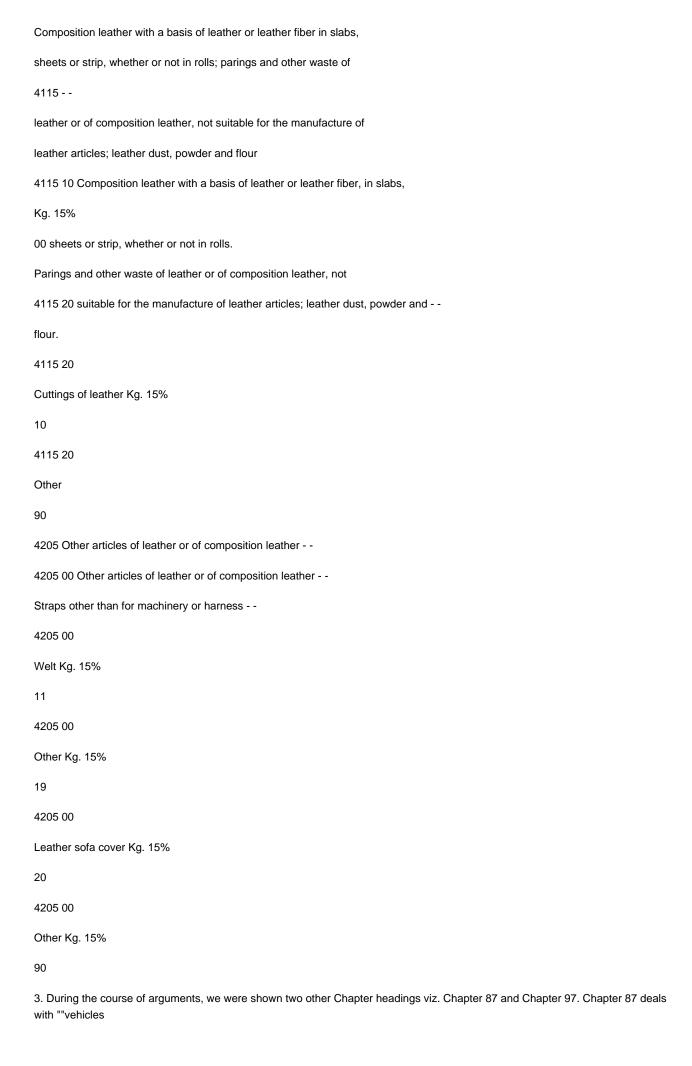
the view that the aforesaid goods were classifiable under Chapter 42, namely Chapter Heading 4205 00 90 which attracted duty @ BCD 15% +

CVD 16% + Education Cess 2% and levied a duty of Rs. 22,86,812/-. The Commissioner, in appeal, upheld the aforesaid classification arrived at

by the Deputy Commissioner. However, the Customs, Excise and Service Tax Appellate Tribunal ("the Tribunal"), in further appeal carried by the

assessee, accepted the said appeal and classified the goods under Chapter Heading 4115 20 90 as ""beef leather cut pieces set - TFC 235 set"".

2. We have gone through the aforesaid two entries which read as under:



other than Railway or Tramway Rolling-stock and includes other parts and accessories of the motor vehicles"". Likewise, Chapter 94 have the

following nomenclature:

Seats (other than those of heading 9402) whether or not convertible into beds, and parts thereof"".

- 4. Sub-heading 9401.20.00 thereof deals with ""seats of a kind used for motor vehicles and sub-heading 9401 90 00 mentions ""parts" thereof.
- 5. We, thus, feel that it would have been more appropriate for the Tribunal to look into the aforesaid Chapter entries as a whole and then come to
- a definite conclusion, in the light of the description of the goods involved as to which the most appropriate entry under which they fall
- 6. Accordingly, we set aside the impugned order, allow the appeal and remit the case back to the Tribunal to decide the aforesaid entries in the

manner indicated.

7. Having regard to the fact that it is an old issue, we would appreciate if the appeal is decided within six months from date of the receipt of the

copy of this order.