

SUPREME COURT OF INDIA

Sintex Industries Ltd.

Vs.

Commissioner of Central Excise

(B.N Kirpal and D.P. Mohapatra JJ.)

04.02.2000

ORDER

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 not 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.