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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-17-1996

Reported in : (1997)(92)ELT551TriDel

Appellant : Fluidomat

Respondent : Collector of Central Excise

Judgement :
1. In this appeal filed by M/s. fluidomat Ltd. the matter relates to the classification of the product called fluidomat fluid couplings. The appellants had sought classification of their product under Heading No.84.85 of the Central Excise Tariff Act, 1985 (hereinafter referred to as the tariff). The Department classified the goods under Heading 84.83 of the Tariff. The matter was posted for hearing on 17-10-1996. The appellants had desired that the matter may be decided on merits in their absence. On behalf of the respondents, Revenue, Shri M. Jayarmam, ld. JDR explained the special features of the product and referred to the explanatory notes to the Customs Cooperation Council Nomenclature.

Section XVI Heading No. 84.63 wherein variable speed fluid couplings have been explained as the rotating vanes of the driving element which throw the fluid against fixed or movable vanes of the driven element.

They have been included in the description of gear boxes and other variable speed gears. It was his submission that such gear boxes and other variable speed gears were classifiable under Heading No. 84.83.

He also referred to the product literature given by the appellants and submitted that Heading No. 84.85 was in the nature of a residual entry and if the goods are classifiable in any other heading of the Chapter 84 they would not be classifiable under the residuary Heading 84.85.

2. We have carefully considered the matter .The appellants have described their product as fluid coupling. They had stated that they offer the widest choice of fluid couplings in every 17 standard model upto the range of 3000 H/power. Besides this they also offer tailor-made model to suit varying needs for automation machines and material handling drives. They work on the Hydro Dynamic pump. It consists of a pump generally known as impeller and a turbine generally known as rotor, both housed in a casing. The impeller and the rotor are bowl shaped and with large number of radial vanes. They face each other with an air gap. The impeller is suitably connected to the mover while the rotor has a shaft bolted to it. This shaft is further connected to the driving machine through a suitable arrangement.

"Transmission shafts (including cam shafts and crank shafts) and cranks; bearing housings and plain shaft bearings; gears and gearing; ball screws gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks, clutches and shaft couplings (including universal joints)." 4. Under Section Note 2 of Section XVI of the tariff parts which are goods included in any of the headings of Chapter 84 are in all cases to be classified in their respective headings. Heading No. 84.83 is a specific heading and the goods will be classifiable under the residuary entry Heading No. 84.85 only when they are not otherwise classifiable under any heading. Heading No. 84.85 is extracted below :- "Machinery parts, not containing electrical connectors, insulators, coils contacts or other electrical features, not specified or included elsewhere in this Chapter." 5. As had been explained in the Customs Cooperation Council Nomenclature Explanatory Notes the variable speed fluid couplings are included in the description of gear boxes and other variable speed gears. In the HSN also variable speed fluid couplings including hydraulic torque converters are included in the description of gear boxes and other speed changers including torque converters.

6. The appellants have sought to differentiate the variable speed type fluid couplings with the torque type fluid couplings but there is no such distinction in the tariff heading where all gears and gearings are classifiable under Heading No. 84.83. The fluid couplings which are in the nature of gear boxes as per the Harmonised system of Nomenclature and BTN are more appropriately classifiable under specific Heading No.84.03.

7. The Collector of Central Excise (Appeals) in his order had observed as under :- "I have gone through the facts of the case, ground of appeal and the technical literature submitted by the appellants I observe that Heading 84.03 is based on the Heading 8483 of HSCN. I further observe that under the Heading Note E gear box and other speed changers including torque convertors at SI. No.3 and item is "mentioned fluid couplings including hydrolic torque convertors".

The heading note reads "variations are obtained by the rotation of vanes of driving element in a fluid (generally oil) against fixed or movable vanes of the driving element. Power is transmitted either by pressure (hydro static changers) or by influx (hydro dynamic changers or torque converters). I have no doubt that fluid coupling is being specially mentioned at SI. No. 3 of Heading Note E under Heading 84.83 of the H.S.C.N. and it will get classified under the same heading in the Central Excise Tariff. I therefore hold that the impugned order is correct in law and based on facts and the same does not require any modification. I accordingly reject the appeal and uphold the impugned order." 8. The appellants had also referred to some alternative classification but have not explained as to how the goods were classifiable under those headings and Heading No. 84.79 they have not chosen to explain about the classification under Heading No. 84.79. This point has also not been discussed by the Collector of Central Excise (Appeals). The Collector (Appeals) had recorded that the appellants had claimed classification of their product under Heading No. 84.85 while the Assistant Collector had approved the classification under Heading No.84.83. In the circumstances it is not possible for us to deal with the issue of a terminative classification at this stage.

9. Taking all the relevant considerations into account we consider that the view taken by the ld. Collector of Central Excise (Appeals) was correct.