Muddeereswara Overseas Traders Vs. Collr. of Cus.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-08-1996

Reported in : (1997)(91)ELT644TriDel

Appellant : Muddeereswara Overseas Traders

Respondent : Collr. of Cus.

Judgement :

1. Appellant is absent in spite of notice of hearing, though request has been sent for decision on merits.

2. Appellant imported goods described in the invoice, Bill of Entry and other documents as steel shear blades covered by Tariff Heading 8208.90. The goods were assessed to duty under Heading 8203.30.

Appellant moved for re-assessment under Tariff Heading 8208.90 and produced a catalogue which was mostly in foreign language. Assistant Collector rejected the claim and directed reassessment under Heading 8202.99. Collector (Appeals) having dismissed the appeal filed by the importer, the present appeal has been filed.

3. Though the import documents described the goods as steel shear blades, appellant admitted before the lower authorities that the goods were actually blades for Gangsaw Sawing Machine. Goods were actually assessed treating them as falling under sub-heading 8203.30.

"Files, rasps, pliers (including cutting pliers, pincers, tweezers, metal cutting sheers, pipe-cutters, bolt croppers, perforating punches and similar hand tools".

Even according to the importer, the imported goods do not fall under the above description.

4. The controversy is between 82Q2.99 and 8208.90. Heading 82.02 reads as follows: "Hand saws; blades for saws of all kinds (including slitting, slotting or toothless saw blades)" 8202.32 - - With working part of other materials 8202.40 - - Chain saw blades "Knives and cutting blades, for machines or for mechanical appliances." 6. The contention of the appellant as seen from the memorandum of appeal is that blades of saws will fall under Heading 82.01 if the blades relate to hand tools and the Chapter heading will not apply if the blades relate to machines. This contention does not appear to be correct. Heading 82.02 refers to blades for saws of all kinds. The heading thus makes a distinction between hand saws and saws of other kinds. The blades referred to in the heading are not only blades of hand saws but blades for saws of all kinds. These are specifically attracted by Chapter Heading 82.02. Therefore, the blades in question cannot fall under Heading 82.08.

7. We are supported in our view by two decisions of the Tribunal in Granite (India) v. Collector of Customs and Central Excise, 1990 (50) E.L.T. 536 (Tribunal) and Collector of Customs v. Manjushree Minerals Ltd.,1993 (64) E.L.T. 85 (Tribunal) holding that saw blades of machines fell under old T.I. 82.01 /04. Old tariff Heading 82.01 /04 took in hand tools and blades for hand or machine saws. Explanatory Note (B) to Chapter Heading 82.02 of HSN at page 1104 refers to saw blades of all kinds, for hand saws and for machines, and for all materials. These aspects support the conclusion we have arrived at that the correct sub-heading is 8202.99, as held by the lower authorities.