Higher Tractors Ltd. Vs. Collector of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-21-1997

Reported in : (1997)(95)ELT63TriDel

Appellant : Higher Tractors Ltd.

Respondent : Collector of Customs

Judgement :

1. In this appeal filed by the appellant the matter relates to the eligibility of the piston rings imported by them to the benefit of exemption Notification No. 172/89-Cus., dated 29-5-1989. Under exemption Notification No. 172/89-Cus., dated 29-5-1989 under Sl. No. 7 of the table annexed to that notification goods falling under 84.09 were eligible for concessional rate of duty but such exemption was not available to part of engine which was interchangeable for use in motor vehicles. The appellants have imported piston rings for their tractors.

The matter was adjudicated by the Asstt. Collector who denied the exemption on the ground that the tractors were motor vehicles and the benefit of exemption Notification No. 172/89 was not available. On appeal the Collector of Customs, New Delhi while agreeing with the appellant's contention that the imported piston rings were suitable for eicher tractor engines found nothing to support their plea that the imported piston rings were not interchangeable with another motor vehicle and were not usable in any other motor vehicles. The appellants have prayed for decision on merits. The matter had come up last on 24-4-1997 when the appellant's counsel had sought time to produce documents. The matter was adjourned for today i.e. 21-5-1997. We find that no document have been produced.

2. For the respondents Revenue Smt. Ruchira Pant, SDR stated that the tractor were motor vehicles and as the parts of engine which were interchangeable for use with motor vehicles were excluded from the purview of Sl. No. 7 of the table annexed to Notification 172/89-Cus.

the benefit of that notification had been correctly denied to them. She further submitted that no material had been placed on record to show that these imported piston rings were not for use in the engines which were interchangeable for use with motor vehicles.

3. We have carefully considered the matter. The appellants have declared their goods as piston rings for eicher tractors. On examination of the goods they were found to be NPR piston rings eicher 115 NM. There is no dispute that the piston rings were for eicher tractor. The diesel engines for which these piston rings were imported were for the tractors.

4. The tractors can only be driven by a person holding a valid licence.

They are suitable for use on roads. If need be they could be and are often engaged in the transport of goods. Under Section 2(44) of the Motor Vehicles Act, 1988 tractor is a motor vehicle. Under the erstwhile Item No. 34 of the Central Excise Tariff tractors were given a separate sub-item no. and both motor vehicles and tractors were covered under the same Item No. 34 of the erstwhile Central Excise Tariff.

5. Ld. SDR had referred to the Tribunal decision in the case of Krishna Fabricators Pvt. Ltd. v. CCE, Bangalore - 1994 (69) E.L.T. 729 (Tribunal) in support of her contention that the tractor was covered within the expression motor vehicle.

6. The Collector of Customs (Appeals) had observed that the appellants have not furnished any material to substantiate their claim that the goods imported were for the engines which were not interchangeable with any other motor vehicle. He observed that "I find that the appellant have not given any catalogue for the

imported goods and the invoice does not give any number etc. of the imported piston rings to indicate their special characteristics and to support the claim of the appellant that they were suitable exclusively for either diesel engine and for no other motor vehicle." 7. After taking all the relevant factors into account we do not find any merit in this appeal and the same is rejected.