

Simtools Ltd. Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-17-1997

Reported in : (1997)(93)ELT712TriDel

Appellant : Simtools Ltd.

Respondent : Collector of Central Excise

Judgement :

1. The short issue for determination in this appeal is whether the item described as "top and bottom tool" in the invoice by the appellants is classifiable under Tariff Item No. 68 or Tariff Item No. 51 A(iii) of the Central Excise Tariff.

2. The facts leading to the present appeal are that the appellants received certain products for machining. After machining they cleared the said item assessing it under Tariff Item No. 68. The department alleged that since the item is designed to be fitted in machine tool therefore it should be classifiable under Tariff Item No. 51A(iii). The Appellant's contended that machining did not bring into existence any distinct new product; distinct in name, use and character. The lower authorities held that the item described as top and bottom tool was nothing but a tool designed to be fitted in a machine tool and classifiable as tool to be fitted in a machine tool. Shri G.D. Sharma, the Id. JDR appearing for the respondent Commissioner submits that from the invoice it would be clear that the item was Top and Bottom tool namely it was a tool, to be fitted in a machine tool. That there was a specific heading for tools designed to be fitted in a machine tool and that the specific heading was Tariff Item No. 51A(iii). He reiterated the findings of the lower

authorities.

3. None appeared for the appellants. However, the facts being available on the record it was decided to proceed in the absence of the appellant.

4. Heard the submissions of the Id. DR. Perused the record and evidence on file. We find that in the Invoice No. 20, dated 19-6-1997 which is the subject matter of the present dispute, the goods have been described as "top and bottom tools". We note that for tools designed to be fitted in machining tools there is a specific heading. We also note that for classification in the Central Excise Tariff if an item did not qualify for classification under any of the 67 Tariff items then it was consigned to Tariff Item No. 68. In the instant case we note that there is a specific Heading for "Tools" designed to be fitted in machine tools and therefore that Heading was specific instead of "not elsewhere specified", (Tariff Item No. 68). We agree with the contention of the Id. DR emphasising the findings of the lower authorities that machining brought into existence a distinct product described as "Top and Bottom tool". In these circumstances we uphold the impugned order and reject the appeal.

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