Collector of Customs Vs. M.M. Enterprises

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-12-1997

Reported in : (1998)(97)ELT463TriDel

Appellant : Collector of Customs

Respondent : M.M. Enterprises

Judgement :

1. In this appeal filed by the Revenue, the matter relates to the classification of the goods imported Electro Magnetic Clutches. The importer M/s. M. M. Enterprises has sought classification of the said goods under sub-heading No. 8505.20 of the Customs Tariff which covered electro magnetic couplings, clutches and brakes. The goods imported were meant for car air conditioning system. The Asstt. Collector of Customs was of the view that the goods imported were a part of air conditioning system and the air conditioning system by virtue of Note 1 Chapter 98 were classifiable under sub-heading No. 9806.00. Taking the electro magnetic clutches as part of the air conditioning system, he, classified them as under sub-heading No. 9806.00 of the Tariff with benefit of Notification No. 68/87, dated 1-3-1987 as amended. The importers filed an appeal with the Collector of Customs (Appeals), Bombay who set aside the order passed by the Asstt. Collector of Customs and held that the electro magnetic clutches under importation were assessable to duty under ub-heading No. 8505.20.

2. The matter was posted for hearing on 12-9-1997. No one is present for the Respondent, M. M. Enterprises.

3. We have heard Shri A.K. Agarwal, SDR who is present for the Appellant Revenue. He referred to the relevant Tariff entries, the explanatory notes with regard to the sub-heading No. 84155 (sic) in the HSN and the grounds of appeal. He submitted that the electro magnetic clutches transmitted power from the crankshaft of the engine to the compressor in car air condition-ine; without the clutches the air conditioning could not operate. It was his view that it was an essential part of car air conditioning and that the original authority, the Asstt. Collector of Customs had taken a correct view in the matter, and as pleaded in the grounds-of-appeal by the Revenue, the view taken by the ld. Collector of Customs (Appeals) was not correct.

4. We have carefully considered the matter. We find that the electro magnetic clutches are specifically included in Heading No. 85.05, sub-heading No. 8505.20 for the Customs Tariff.

5. In the grounds-of-appeal the role of the electro magnetic clutches had been stressed by the Revenue as under: "Functionally the clutches receive power from the crankshaft of the car engine and transmits the same to the compressor which forms part of the air conditioning apparatus." The clutches thus is neither a part of the crankshaft of the car engine nor the part of the compressor of the air conditioning apparatus. The Collector of Customs (Appeals) had referred that the function of the clutch was engaging and disengaging the compressor from crankshaft derive.

6. The Revenue had referred to Note 4 under Section XVI of the Tariff which is re-produced as under: "Where the machine (including a combination of machines) consist of individual components (whether separate or inter-connected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in Chapter 84 or Chapter 85, then the whole falls to be classified in the heading appropriate to that function." This Section note with reference to transmission device is applicable only when a machine or a combination of machines consisted of individual components. The crankshaft of the car engine on the one hand and the compressor of the air conditioning apparatus were not covered by the

expression of a single machine or even a combination of machines for the purposes of this note.

7. Heading No. 98.06 covers parts of machinery equipments, appliances, instruments and articles of Chapters 84, 85, 86, 89 arid 90. As in our view the electro magnetic clutches in' these proceedings were not a part of the air conditioning machine, their classification under ub-heading No. 9806.00 was not correct. The Collector, Customs (Appeals) had agreed with the importers that the clutch imported was not a part of the air conditioning machine fitted in the car and that a accessory to the air conditioning system was not to be regarded as a part of the air conditioning machine and that Heading No. 9806.00 was only for parts of the machine and not for accessories.

8. Taking all the relevant facts and circumstances of the case, taken into account we do not find any infirmity in the view taken by ld.Collector of Customs (Appeals). As a result the appeal filed by the Revenue is rejected.