

Cc Vs. Famous Auto Industries

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-03-1998

Reported in : (1998)(77)LC149Tri(Mum.)bai

Judge : R T Lajja, S Kang

Appellant : Cc

Respondent : Famous Auto Industries

Judgement :

1. The Revenue filed this appeal against the order-in-appeal passed by the Collector, Customs (Appeals), Bombay.
2. None appeared on behalf of the respondent in spite of notice. In the circumstances, the appeal is being taken up in the absence of the respondent.
4. In this case, the respondent made import of Pneumatic Sealer, Cutter, Manual Tensioner and Pneumatic Tensioner and sought their clearance under OGL 6(1) and claimed classification of cutter and manual tensioner under heading No. 8205.59 of the Customs Tariff and that of Pneumatic sealer and pneumatic tensioner under heading 8467.19 of the Customs Tariff. The adjudicating authority vide adjudication order dated 18.7.1987 held that the goods were classifiable under heading 8422.40 of the Customs Tariff and held that the goods were not covered by OGL and the goods were ordered to be confiscated and released on redemption fine of Rs. 50,000/-.

5. The present respondent filed an appeal and the Collector, Customs (Appeals), Bombay vide his order-in-appeal dated 29.12.1988 held that cutter and manual tensioner were classifiable under heading No. 8205.59 and pneumatic sealer and pneumatic tensioner were classifiable under heading No. 8467.19. The Collector, Customs (Appeals) remanded the matter to the adjudicating authority for reconsideration regarding ITC licence aspects.

6. The adjudicating authority on remand also reconsidered the classification of the goods and held that these are correctly assessable under heading 84.22 of the Customs Tariff. The present respondent filed an appeal and the Collector, Customs (Appeals) held that the matter was remanded by the then Collector, Customs (Appeals) vide order dated 29.12.1988 for a limited purpose for ascertaining the correct value of Item I and II of the Bill of Entry comparing the values produced from the original Bill of Entry and for reconsideration of ITC fine imposed on the importers. In the circumstances, the Collector, Customs (Appeals) in the impugned order held that the adjudicating authority cannot go beyond the directions contained in the order-in-appeal.

7. The Collector, Customs (Appeals) in the order-in-appeal dated 29.12.1988 only remanded the matter back to the adjudicating authority for a limited purpose. The Collector (Appeals) in the order classified the goods in question and only directed the adjudicating authority for ascertaining the correct value of Item No. I and II of the Bill of Entry and for reconsideration of ITC fine. In the circumstances, we find that the adjudicating authority exceeds his jurisdiction of reopening the issue of classification which was settled by the Collector, Customs (Appeals) vide his order-in-appeal dated 29.12.1988.

8. In view of the above discussions, we do not find any infirmity in the impugned order and the appeal is dismissed.

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