

Collector of C. Ex. Vs. Chamundi Machine Tools Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-30-1998

Reported in : (1999)(112)ELT987TriDel

Appellant : Collector of C. Ex.

Respondent : Chamundi Machine Tools Ltd.

Judgement :

1. This is an appeal filed by the department against the Order-in-Appeal No. 33/90, dated 25-1-1990 passed by the Collector of Central Excise (A), Madras.
2. When the matter was called, Shri R.S. Sanghia, Id. JDR appeared on behalf of the appellants and while reiterating the grounds submitted that the Collector of Central Excise (A) while passing the impugned order in respect of Items 1-9 of the classification list in question classified them under Heading 84.66 of the Central Excise Tariff in favour of the party has failed to consider the provisions of Note 2(a) of Section 5 read with Note 1(g) to Section 16 of CET, 1985 which clarifies that the impugned goods which are parts of general use are correctly covered under Heading 73.18 (earlier 83.18) of CET. Further, he said that Notification 168/88, dated 13-5-1988 lays clear support in the matter to the effect that the impugned goods namely screws, nuts and bolts even if used as parts of power-driven pumps are not covered by Chapter 84 of the CET.3. The respondents had remained absent. However, it was requested to decide the case on merits based upon the cross-objections filed by them. In the cross-objections, it was submitted by them that on the basis of details furnished and read as Appendix-A it was held

that 9 items from serial numbers 1-9 of the said Appendix are parts and accessories solely or principally used on the Lathe Machine LB 17 as goods classifiable under sub-heading 84.66. The remaining 29 items were classified as parts of general use and the present sub-heading 73.18 as bolts, nuts and screws. They requested to uphold the decision of the Collector (A) in respect of items 1-9 as classified by the Collector (A) and remaining items under sub-heading 7318.10 as held by the Collector (A).

4. We have carefully considered the matter. We find that the Collector (A) has remanded the matter to the jurisdictional Assistant Collector directing him to carefully consider each item concerning the function it is expected to perform and then only decide the classification. In other words, he has remanded the matter for fresh disposal. We direct the Assistant Collector while re-adjudicating the matter to decide the classification of each item taking into consideration all the provisions of Note 2(a) to Section XV read with Note 1(g) to Section 16 and to pass appropriate order after providing an opportunity to the appellants. Thus, this appeal is disposed in the above terms.

Cross-objection is also disposed of accordingly.

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