Escorts Tractors Ltd. Vs. Cc

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-19-1998

Reported in : (1999)(81)LC315Tri(Delhi)

Judge : R T Lajja, S Kang

Appellant : Escorts Tractors Ltd.

Respondent : Cc

Judgement :

1. Shri Dinesh Charak, Manager-Law, appeared on behalf of the appellants and prays for adjournment. We find that the issue involved in this appeal is covered by the decision of the Tribunal. Therefore, the request for adjournment is declined.

2. The appellants have filed this appeal against the order passed by the Commissioner of Customs (Appeals), New Delhi. In this case, the dispute is regarding the classification of Water Pump Bearings imported by the appellants. The appellants claimed the classification of the Water Pump Bearings under sub-heading 8483.30 of the Customs Tariff as plain shaft bearings and the Revenue assessed the Water Pump Bearings under sub-heading No. 8482.10 of the Customs Tariff, 1985.

4. We find that the issue regarding the classification of the Water Pump Bearing is covered by the decision of the Tribunal in the case of International Auto Suppliers v. CC, Bombay, .

The goods under import i.e. Water Pump Bearings or Integral shaft ball bearings are not plain shaft bearings, as claimed, but are ball bearings without any bore and should be classified in CTH 8482.10.

The classification of these goods, was examined by the Honourable CEGAT in the case of M/s. International Auto Suppliers v. Collector of Customs, Bombay reported at (Tribunal). In that case, the department had Assessed these goods in CTH (as it existed then) 8462(2) whereas the appellants had requested for clearance under CTH 8462(1). These headings were as follows: 2. Ball bearings of all types not exceeding 60 millimetre bore diameter Honourable CEGAT had decided that the water pump bearings or integral shaft ball bearings are classifiable in CTH 8462(1) as Ball Bearings. It is also to be noted that both the appellants and the department had agreed that the goods are ball bearings and differed on the issue of subheading only.

It is also to be noted that in 1983, plain shaft bearings were under CTH 8463(2). Had the water pump bearings or integral shaft ball bearings been plain shaft bearings, these would be classifiable in CTH 8463(2) as it existed in 1983. Neither the department assessed these goods under CTH 8463(2) nor the appellant claimed classification there.

In the present tariff, the heading 8462 has been replaced by heading 8462 and heading 8463 has become heading 8483. The goods under import being Ball Bearings without any bore gets classified in CTH 8482.10.

6. The Tribunal in the case of International Auto Suppliers v. CC, Bombay, supra, in para 5 held as under: 5. The subject spindle bearings or integral shaft ball bearings do not have a bore as they have an integral shaft fixed at the place where the bore should have been. When they do not have a bore, the question of their having a bore diameter does not arise. It is not permissible to ignore the actual condition of the goods imported and assess them on the basis of some deemed condition. Since the subject goods do not fulfil the requirements of sub-heading (2), there is no scope to invoke the Interpretative Rule 3(c) and since by common agreement the goods are bearings, they fall squarely under subheading (1) of Heading 84.62. When an appropriate heading for the goods themselves is

available in the Tariff, the question of invoking the Interpretative Rule 4 to search for some other heading appropriate to the akin goods does not arise. We, therefore, hold that the subject spindle bearings were correctly classifiable under Heading 84.62(1).

The appeal filed by International Auto Suppliers was dismissed by Hon'ble Supreme Court as reported in (48) ELT A-26.

7. We find that the Heading 8462 of the Customs Tariff has been replaced by the Heading 8482 and the Heading 8463 has become Heading 8483 at the time of import of the goods in question as held by the adjudicating authority.

8. In view of the decision of the Tribunal in the case of International Auto Suppliers v. CC, Bombay, we do not find any infirmity in the impugned order. The appeal is dismissed.