Goodyear India Ltd. Vs. Cc

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-07-1998

Reported in : (1999)(82)LC174Tri(Delhi)

Judge : J T P.C., S Kang

Appellant : Goodyear India Ltd.

Respondent : Cc

Judgement :
1. Question involved in the present matter is regarding the classification of an instrument described as "one set of ozone aging tester." The appellants contend that it falls under Tariff sub-heading 9027.80 whereas the Revenue contends that it falls under 9031.80. It is not disputed that if the appellants succeed in their contention regarding classification benefit of notification No. 311/86-Cus. would be available to them.

3. In order to appreciate rival contentions, it is necessary to reproduce relevant headings 9027 and 9031 and the relevant sub-headings which are as under:90.27 Instruments and apparatus for physical orchemical analysis (for example, polarimeters, refractometers, spectrometers, gas or smoke analysis apparatus); instruments and apparatus for measuring or checking viscosity, porosity, expansion, surface tension or the like; instruments and apparatus for measuring or checking quantities of heat, sound or light (including exposure9027.80 -- Other instruments and apparatus90.31 Measurement or checking instruments,

appliances and machines, not specified or included elsewhere in this Chapter; 4. Lower appellate authority has admitted that the instrument, no doubt, does the chemical analysis but the benefit of the notification has been denied to the appellant on the ground that the said instrument can perform much more functions than this. It has not been elaborated in the order as to what further function it does, but keeping in view what has been reproduced in the impugned order earlier from the catalogue relating to ozone aging tester, the instrument with the help of a micro processor does the calculation and makes it easy for analysing and controlling total measurements. The machine has been described as easy to operate and labour saving machine, in view of the foregoing there is no doubt that Ozone Aging Tester is an instrument for chemical analysis as admitted to the lower appellate authority and is therefore, classifiable under Tariff sub-heading No. 9027.80 as claimed by the Id. advocate of the appellants Shri R. Sudhinder.

Consequently the appellants would also be entitled to the benefit of notification No. 311/86-Cus.

5. In sum and substance, the appeal of the appellant herein is allowed after we set aside the impugned order. Consequential relief be extended to the appellants.