

The Controller of Stores, Central Vs. Collector of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-31-1983

Reported in : (1985)LC1079Tri(Delhi)

Judge : B Gujral, Vice, S Jha, R T I.J.

Appellant : The Controller of Stores, Central

Respondent : Collector of Customs

Judgement :

1. The appellants have imported 'Steel Tyres' in unfinished conditions which were assessed under heading 63(28) of I.C.T. They claimed re-assessment under heading 74(3) of I.C.T. and consequential refund, which was rejected by the Assistant Collector of Customs and the Appellate Collector of Customs as well.

2. In the appeal, they have again reiterated that the goods in question should fall under item 74(3) of I.C.T. since the steel tyres imported by them are meant for carriage and wagons of the railways.

3. S/Sh. D.S. Kulkarni and K.V. Krishnan appearing on behalf of the appellants stated that the total cost on finishing the articles for fitment and use on the carriages and wagons amounted to not more than 4.6% of the c.i.f. cost of the tyres. The machining cost of one tyre is around Rs. 45.68 and not Rs. 83.03, as accepted by the lower authorities. In any case, the total cost of machining and finishing the imported goods is insignificant compared to the c.i.f cost of the tyres.

Accordingly, they contended that the goods should more appropriately fall under heading 74(3) of the I.C.T. The appellants have brought to the notice of the Bench an order passed in their case in appeal No. 218/79-B, bearing No. 1041-B/1983 dt. 15.11.1983 passed by the same Bench, wherein similar goods were assessed under heading 74(3) of I.C.T.4. Sh. V.M.K. Nair, S.D.R. appearing on behalf of the respondent has countered this argument by saying that the total cost earlier declared before the lower authorities and accepted by the Appellate Collector was Rs. 83.03. However, later, he accepted the clarification given by the appellants during the hearing that the cost of Rs. 83.03 declared earlier includes certain administrative and other expenses which are not necessarily part of the finishing of the goods for fitment.

5. Having considered the submissions made by both the parties and following the decision of the Bench in their earlier case and the merits of the case as above, we are inclined to accept that the cost of finishing the tyres in question is not significant enough and accordingly the goods in question should be reassessed under heading 74(3) of I.C.T. The appeal is accordingly allowed with consequential refund.

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