

Collector of Central Excise Vs. Kirloskar Ebara Pumps Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-07-1999

Reported in : (1999)(66)ECC127

Appellant : Collector of Central Excise

Respondent : Kirloskar Ebara Pumps Ltd.

Judgement :

1. The question before us in this appeal is classification of sleeves used for protecting the shaft in power driven pump (P.D. Pump).
2. Lower appellate authorities has classified the said products as sleeves under Tariff Heading 84.13 as part of P.D. Pump whereas the Revenue contends that sleeves are part of shaft which are classifiable under Tariff Heading 84.83. Therefore by application of Section Note 2, sleeves are to be classified as part of shaft under Tariff Heading 84.83.
3. We have gone through the impugned order as well as the ground of the appeal. We observe that shaft can function without sleeves but the purpose of sleeves is only to protect from wear & tear and corrosion and erosion. Therefore sleeves are rightly to be treated as part of P.D. Pump but not as a part of shaft and the pump can function without sleeves. The ground given by the Revenue in its Memo, of Appeal that the same Commissioner (Appeals) classified that the sleeves are part of shaft under Tariff Heading 84.83 is not a good ground for contending against the classification under Tariff Heading 84.13. The mistake once committed by the

Commissioner (Appeals) need not be perpetuated in another appeal. The adjudicating authority is always at liberty and duty bound to pass correct order. We are of the view that the impugned order before us is correct because the function of the sleeves is merely to protect the shaft and not to partake in its function.

4. We find that our view is further fortified with the judgment of the Tribunal in the case of C.C.E., Pune v. Kirloskar Brothers Ltd., reported in 1995 (76) E.L.T. 216 (T). Hence, we reject the appeal of Revenue.

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