

**Engineering Tooling Equipments Vs. Cce**

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**SooperKanoon Citation :** [sooperkanoon.com/16077](http://sooperkanoon.com/16077)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

**Decided On :** Jun-22-1999

**Reported in :** (1999)(85)LC25Tri(Mum.)bai

**Judge :** J T J.H., G Srinivasan

**Appellant :** Engineering Tooling Equipments

**Respondent :** Cce

**Judgement :**

1. The application for condonation of supplementary appeals and stay petitions was allowed. Supplementary appeals and stay petitions were taken on record.

2. After hearing Shri V.S. Sejpal, C.A. for the applicants and Shri A.K. Chatterjee for the Revenue on the stay applications, it appeared that at this stage itself the matters could be taken up for disposal.

By way of supplementary cause list the main appeal E/3663-RV/98-Bom was also listed and following four appeals were taken up for disposal, i.e.

E/1280 & 1281-RV/99-Bom and E/3662 & 3663-w"no Bom.

3. The appellants classified the product titled as "core barrels complete" under sub-heading 8430.00. The Assistant Commissioner examined the description of the products and issued the show cause notice to the assesseees as to why the products not be classified under heading 8431.00 since the activity of threading,

joining, coupling had been undertaken on the pipes and tubes which activities were processes of manufacture in terms of Section 2(f) of the Central Excise Act, 1944. Before the Assistant Commissioner the assessee claimed that the activity of threading pipes and tubes at the end either internally or externally did not amount to manufacture. The Assistant Commissioner held that such activity converted pipes and tubes into articles known separately in the market. He referred to and relied upon a circular of the Board in which steel tubes converted into oxygen lancing pipes were held to be newly manufactured products. He classified the goods under sub-heading 8431.00 and confirmed the differential duty in the other three orders. The Commissioner (Appeals) upheld the four orders. In doing so, he held that where the only process conducted was threading the goods, the goods would remain classifiable as pipes and tubes. In other cases they would merit classification under sub-heading 8431.00.

He further held that with the evidence on record no reason existed to interfere with the four orders.

4. We have critically examined the Assistant Commissioner's orders and find that the orders are not very clear. He has not listed any processes except for the threading as having been undertaken on the contested goods. It is the claim of Shri Sejpal that the goods cannot be compared with the oxygen lancing pipes. He further relies upon the.

Tribunal's judgment in the case of CCE v. Vulcan Laval Ltd. wherein it has been held that the process of threading and cutting pipes and tubes did not amount to manufacture.

The learned Commissioner seems to accept this but finds in the Assistant Commissioner's orders something on which he upholds the same.

We do not find anything in the Assistant Commissioner's orders to show that the processes undertaken were over and above that of threading.

Since an element of doubt still persists, we deem it fit to set aside the impugned orders and remand back the proceedings to the jurisdictional Assistant

Commissioner. He will go into the aspect of the actual processes undertaken and performed on the seamless tubes and pipes. He will list all the processes. He will state very clearly whether those processes go beyond mere threading and if he finds that they do and that the cited judgment does not cover the processes then he shall clearly state so and give his reasons for classifying the products as alleged in the show cause notice. If he finds that the processes are such as were already described in the cited order than he shall clearly state so and make appropriate speaking orders.

5. The appeals are disposed of by remand. The stay applications also stand disposed of.

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