

Collector of C. Ex. Vs. Perfect Valves and Machine Tools

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-06-1999

Reported in : (2000)(117)ELT46TriDel

Appellant : Collector of C. Ex.

Respondent : Perfect Valves and Machine Tools

Judgement :

1. In this appeal filed by the Revenue, the matter relates to the classification of Hex nuts and Rim nuts. The period involved is from December, 1982 to March, 1983 and April, 1983 to December, 1983. The respondents M/s. Perfect Valves and Machine Tools Corpn. had claimed the benefit of Notification No. 102/80-C.E., dated 19-6-1980 which provided exemption to the cycle parts. The Additional Collector of Central Excise who adjudicated the matter observed that these Hex nuts and Rim nuts were part of cycle valves which are fitted on to the cycle tubes so that the air may be compressed into tubes to make the cycle ready for running. He had further observed that these nuts had got distinct identity and in the commercial parlance were known as cycle parts only.

2. When the matter was called, no one appeared for the respondents. The notice for today's hearing had been received back with the postal remarks 'left'. As it is an old matter in which the Order-in-Original was passed in the year 1992 and the period involved is 1982-83, we are proceeding to deal with the matter on merits after hearing Shri R.D.Negi, SDR.3. From the facts on record, it is seen that the goods in dispute - Hex nuts and Rim nuts were specifically meant for the valves

fitted on to the cycle tubes. They had been given special shape for the purpose and had no other application than as parts of the cycles.

4. In the grounds of appeal, the Revenue had pleaded that the bolts, nuts and screws were specifically covered under Item No. 52 of the erstwhile Central Excise Tariff and as Notification No. 102/80-CE., dated 19-6-1980 only apply to the goods falling under Chapter 68, the nuts in question were not eligible for the benefit of that Notification No. 102/80-CE. It has however, been admitted that the nuts in question were components of the valves for cycle tubes and thus could be called parts of the valves or of tubes. It has been argued that as the part of the tubes, they should be classifiable under item No. 16 (II) (2) of the erstwhile Central Excise Tariff.

5. We consider that as it has been admitted by the Revenue that the nuts were components for the valves for cycle tubes, they could be considered as part of cycle. As part of the parts in the facts and circumstances of this case, they should be considered as parts of the cycle. In this connection reference may be made to the Tribunal's decision in the case of Bajaj Auto Ltd. v. C.C.E., Pune, 1994 (74) E.L.T. 599 (Tribunal). Ashok Leyland Ltd. v. Collector of Central Excise, 1989 (43) E.L.T. 486 (Tribunal), the Tribunal following their earlier decision in the case of New Mangalore Engineering Company (P) Ltd. Appeal No. 939/83-D, Order No. 746/87-D, dated 12-8-1987 had held that the U-Bolts, centre bolts and eye-bolts, used in the automobile be of spring assembly, held that till the amendment of item No. 34-A, were classifiable till the amendment under item No. 34 A and after the amendment they were classifiable till the amendment under Item No. 68 and not under No. 52 of the Central Excise Tariff.

7. Following the same analogy, we consider that the Additional Collector of Central Excise had correctly classified the Hex nuts and Rim nuts as parts of the cycle. No material has been placed on record to disturb the findings of the adjudicating authority. We do not find any ground to interfere with his view and as a result the appeal filed by the Revenue is rejected.