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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-14-1984

Reported in : (1985)(22)ELT125TriDel

Appellant : Automatic Electric Ltd.

Respondent : Collector of Customs

Judgement :

1. The Revision dated 21-3-1978 against Order-in-Appeal No. 682/77R, dated 26-11-77 passed by the Appellate Collector of Customs, Bombay has been transferred to the Tribunal for disposal in terms of Section 131B (2) of the Customs Act, 1962.

2. A consignment of "Porcelain Bushings/Insulators for 220 KV" was imported and assessment was claimed under Heading 85.18/27(7) but it was assessed under sub-item (1) of this Heading vide Bill of Entry No.4390, dated 27-10-76. Aggrieved by this classification, the appellants contended before the Appellate Collector that the insulators were "designed for use in an electrical transmission system of 400 volts or above", and these bushings are used with voltage current type of transformers, which are in fact part of transmission system and without which it cannot be considered as complete. Catalogues and drawings were also produced. The Appellate Collector observed that in transmission lines suspended type of insulators are used and not bushing type insulators; and that transformers which are installed either at the transmission point or at receiving point are considered a separate item/ unit. The bushing type of insulators are not on the transmission line

for which suspended type of insulators are needed and designed and which is distinct from the bushing type insulators used with transformer.

3. In the present appeal it is contended that the supplier's invoice describes the subject goods as "Porcelain Bushing/Insulators Brown Glazed Porcelain Insulators for 220 KV Instrument transformers, suitable for normally polluted atmosphere." The department has accepted that the item imported is an insulator and being above 220 KV it cannot be disputed that it is to be used for voltage of 400 volts and above.

The insulators are used in the current transformers manufactured by the appellants and are necessary near each end of the transmission line for measurement and protection of the transmission system which cannot work without this equipment and where the insulator is the main important portion. As such, the Department's contention that it is not an insulator used on transmission system, is not acceptable. They have considered the transmission line only as transmission system. In fact, the system includes the line, the towers, the associated protection arrangement, etc. The transmission systems are a monopoly of the State Electricity Boards to whom the Instrument transformers are entirely supplied for use in their transmission system. The Department's attempt to take away the item from its description of an insulator, by stating that bushings are different from the insulators, as the former is used for machinery, is strange logic in view of the clear description given in the invoice. Therefore, the insulators are necessarily used in transmission system and should fall under sub-item (7) of Heading 85.18/27.

4. Shri K.G. Seth reiterated these contentions. He produced drawings and photographs to support his argument that the goods in question are used in electrical transmission systems. He referred to the letter of Dr. G.M. Phadke, Secretary General of the Electrical Manufacturers Association, stating that Transmission Systems usually consist of the following elements :(1) generating stations; (2) step-up transformer stations; (3) transmission lines; (4) switching stations; (5) step-down transformer stations; (6) primary distribution lines or networks; (7) service transformer banks; (8) secondary lines or networks.

According to this classification, given in McGraw-Hill's Standard Handbook for Electrical Engineers (10th Edition), essentially, elements (2) to (5) are the transmission system and (6) to (8) are the distribution system.

The difference between transmission systems and distribution systems depends upon the function. One is transmission of bulk power to load centres and large industrial users beyond the economical service range of the regular primary distribution lines. The function of the other system, namely, distribution is to deliver power from generating system or transmission sub-stations to the various consumers. According to the Indian Electricity Rules "system" means an "electrical system in which all the conductors and apparatus are electrically connected to a common source of electric supply". The ISI defines Power System as a system comprising installation of generators, transformers, switchgear, lines, accessories and structures used for the generation, conversion, transformation, transmission and distribution of electrical energy.

Shri Seth further pointed out that it is technically not feasible to use this insulator where insulation is required only up to 400 volts, due to its price, size and character. Further, 400 KV/220 KV, 132KV/66 KV lines are used only for transmission of electricity from one end to another end for distribution, after downgrading the voltage to 400V/230Vs and the insulators used in instrument transformers of 220 K.V. system are an integral part of Transmission System. The string-type insulators/suspended insulators are used only to maintain the distance between phases/wires carrying currents to give support to the wires so that they do not fall or hang.

5. Shri K.V. Kunhikrishnan supported the action of the lower authorities. He relied on the New Electric Science Dictionary by Audel and the McGraw Hill Encyclopaedia of Science & Technology to draw a distinction between a transmission system and a distribution system. He stated that current transformers are also called instrument transformers, the purpose of which is to convert primary voltage or currents to secondary values suitable for use with relays, meters, or other measuring instrument and also to isolate the high-voltage primary circuit from the measurement circuit. Electric Distribution Systems are that part of an

electric power system that supplies electric energy to the individual user or consumer and includes the primary circuits and the distribution sub-stations that supply them; the distribution transformers; the secondary circuits, including the service to the consumer, and appropriate protective and control devices. The four general classes of individual users are residential, industrial, commercial and rural. He contended that these current transformers were capable of use in transmission as well as distribution systems and even Dr. Phadke has conceded this position. Since the Heading 85.18/27(7) mentioned only transmission system, strict interpretation was necessary; and insulators used in distribution, as well as transmission, systems would not be entitled to assessment under this classification.

6. We have considered the submissions carefully and explained the reasons of the case. The tariff Heading 85.18/27(7) does not confine the description to transmission lines but speaks of an electrical transmission system. We notice from the technical definitions relied upon by the learned Departmental Representative that a distribution sub-station is an assemblage of equipment for the purpose of switching, changing and regulating the voltage from sub-transmission to primary distribution. To our mind, the line between transmission and distribution is blurred and the department has not shown where transmission ends and distribution begins. Further, if Heading 85.18/27 (7) was intended to cover only suspended type of insulators and not the bushing type as contended by the Department, this would have been specifically stipulated. There may be a unit which both generates power and distributes it. For instance, the Delhi Electric Supply Undertaking not only generates power but also transmits the same to sub-stations and distributes it. It cannot be argued that supply or distribution systems do not include transmission or sub-transmission : The voltage of these insulators/bushings of 220 KV is also a great many times more than the stipulated limit of 400 volts under the Heading 85.18/27.

7. In the circumstances, we set aside the order of the Appellate Collector and allow this appeal.