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Commissioner of Central Excise Vs. Buckau Wolf India Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-15-2000

Reported in : (2001)(130)ELT661TriDel

Appellant : Commissioner of Central Excise

Respondent : Buckau Wolf India Ltd.

Judgement :

1. In this appeal preferred by Revenue the issue involved is whether Gravel Gate Valve manufactured by M/s. Buckau Wolf India Ltd. is classifiable under Heading 84.31 of the Schedule to the Central Excise Tariff Act as claimed by the Revenue or under Heading 84.28 of the Tariff as classified by the Respondent's and confirmed by the Collector (Appeals) under the impugned order dated 30-6-1993.

2. Shri M.P. Singh, learned DR submitted that Heading 84.31 applies to parts suitable for use solely or principally with the machinery of Heading Nos. 84.25 to 84.30; that the impugned goods is solely used in material handling equipment and as such rightly classifiable under Heading 84.31; that the Gravel Gate Valve is positioned between belt conveyor and the grinding mill; that the material is handled through the conveyor consisting of Gravel Gate Valve which cannot function without belt conveyor; that as per respondents' operational manual the bulk material is fed to the Gate proportionately and continuously from the belt conveyor in such a way that the filling degree of the rotor pocket is approximately between 33% to 40%. He contended that accordingly Gravel Gate Valve becomes a part of the material handling machinery and as such is classifiable under

Heading 84.31 .He relied upon the decision in the case of respondents themselves as reported in 1997 (95) E.L.T. 118 (T) [Buckau Wolf India Ltd. v. C.C.E.] and 1997 (96) E.L.T. 172 wherein it was held that parts of loading and unloading machines are classifiable under Heading 84.31 and are not classifiable along with the machine under Heading 84.28. Finally, he referred to the decision in the case of Walchand Nagar Industries v. C.C.E., Pune, 1998 (97) E.L.T. 268, wherein it was held that parts of conveyor and elevator are classifiable under Heading 84.31.

3. Shri V.R. Sethi, learned Advocate submitted on behalf of the respondents, that both the decisions in their own cases relied upon by the learned D.R. do not relate to Gravel Gate Valve and as such are not relevant for determining the classification in the present matter. He further submitted that just because the Valve is positioned after erection of cement plant at site between belt conveyor and grinding mill it does not per se become part of conveyor; that Gravel Gate Valve and Belt Conveyor have independent function as material can move through belt conveyor even without Valve. He emphasised that the impugned goods is a handling device meant to carry out a specific and unique mechanical function of its own; that besides handling material it also prevent air leakage from opposite direction; that apart from regulating movement of material to the grinding mill it also prevents the flow of atmospheric air; that in the past impugned product has been classified under Heading 84.28 only; that due to technological necessity of plant lay out at site the Gravel Gate Valve is positioned between the Belt Conveyor and the Grinding mill; that the material can be fed to Gravel Gate Valve through hopper if need be even without any conveying equipment. He, therefore, prayed that the impugned goods is rightly classifiable under Heading 84.28 alone.

4. We have considered the submissions of both the sides. The rival entries reads as under :-84.28 Other lifting, handling, loading or unloading machinery (For example, lifts, escaltors, conveyors, telleferics)84.31 Parts suitable for use solely or principally with the machinery of Heading No. 84.25 to 84.30.

5. It is apparant from the perusal of the Heading 84.28 that a product can be classified under the said heading only if it is lifting, handling, loading or unloading machinery. The learned Advocate for the respondents could not substantiate the

claim that the impugned goods is a handling machinery to attract its classification under 84.28. We observe from memorandum of approval of classification list dated 17-12-1990 submitted along with cross- objection filed by the respondents that they had described Gravel Gate Valve as under :- "Like a Valve it operates only unidirection and even air leakage from opposite direction is not allowed. It chanalises the flow of material on continuous and uniform basis to the grinding mill.

Therefore, customerily the equipment is called a Gate Valve. Gravel is the crushed raw material in pieces which is fed in the mill through Valve. The material which is to be grind is brought with the help of belt conveyor and is fed into Gravel Gate Valve." 5.1 It is apparant that the function of the Valve is only to control the flow of the material and to prevent air leakage from opposite direction. These functions cannot be considered to be handling functions and as such impugned product cannot be classified under Heading 84.28. We find that Gravel Gate Valve is a part of the material handling system and Heading 84.31 is specific to the parts suitable for use solely or principally with the machinery of Heading Nos. 84.25 to 84.30 and as such is classifiable under Heading 84.31 only. Accordingly the appeal filed by the Revenue is allowed. Cross-objection is also disposed of in the above terms.

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