

Bright Cables Vs. Commissioner of C. Ex.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-17-2000

Reported in : (2000)(120)ELT496TriDel

Appellant : Bright Cables

Respondent : Commissioner of C. Ex.

Judgement :

1. The issue involved in this appeal filed by M/s. Bright Cables is whether the power cables manufactured by them are parts of wind mills so as to be eligible for exemption under notification No. 205/88-C.E., dated 25-5-1988.

2. Shri J.S. Agrawal, learned Advocate submitted that the appellants M/s. Bright Cables manufacture PVC insulated sheathed electric wires and cables which are used in the wind mills; that notification No.205/88, exempts from payment of duty wind mills, parts of wind mills and any specially designed device which run on wind mills; that wind mills becomes functional only through power cables manufactured and supplied by them and as such these are parts and parcel of the wind mills; that the electricity which is produced due to the torque provided by wind is fed through these cables and without them the wind mills cannot function. He relied upon the decision in the case of Elecon Engg. Co. Ltd. v. Collector of Customs, Bombay, 1998 (27) RLT 913, wherein it was held that power cables are parts of wind generated electricity generator. He further submitted that this decision was followed in the case of BHEL v. Collector of Customs, Chennai, 1999 (32) RLT 331. Finally, learned Advocate referred to Note 4 to Section XVI of the Central

Excise Tariff and contended that cables are to be classified along with machines.

2. Countering the arguments Shri V.M. Udhoji, learned D.R. submitted that power cables manufactured by the appellants are general type of power cables which can be used anywhere and as such these are not parts of wind mills; that in the case of Elecon Engg. Ltd., a certificate was produced by the appellants therein that power cables and control cables together form part of inside cabling of the wind turbine controller which is not the case in the present appeal; that the facts in BHEL case are different from the facts in the present matter.

3. We have considered the submissions of both the sides. The appellants have themselves mentioned in their memorandum of appeal that the electricity generated due to torque provided by wind is fed through the power cables. This is evident from this that the power cables come into use for carrying the electricity produced by wind mills and they are not part of the wind mills. We observe that the adjudicating authority in the adjudication Order No. 143/96 has mentioned that the power cables are used for transmitting electricity produced by wind mills to sub-stations for supply to users. The decision in the case of Elecon Engg. is not applicable to the facts of the present matter as in that case a certificate was produced in support of the contention that the power cables were used for inside cabling of wind turbine controller.

No such use of the power cable has been brought on record in the present matter. The learned Advocate has referred to a letter dated 15-7-1995 from NEPC Micone Ltd. in which it was mentioned that the cable supplied by the appellants was used by them in the manufacture of wind electric generator. However, we find that no evidence in support of such contention has been brought on record nor such a function is apparent from the layout of the wind turbine system given by the appellants with the appeal petition. Note 4 to Section 16 is not applicable to the wires and cables as it provides that where machine consists of individual components intended to contribute together to clearly defined function covered by one of the heading in Chapter 84 or 85, then the whole falls to be classified in the heading appropriate to that function. This note deals with the classification of machine consisting of individual components which may be separate or

interconnected by piping, by transmission devices, by electric cable or by other devices. This note does not show that the piping or electric cables which are used for interconnecting the individual components will also be classified along with machine. Accordingly we do not find any reason to interfere with the impugned order and thus reject the appeal.

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