Sara Services and Engineers Vs. Commissioner of C. Ex.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-12-2000

Reported in : (2000)(120)ELT459TriDel

Appellant : Sara Services and Engineers

Respondent : Commissioner of C. Ex.

Judgement :

1. The issue involved in this appeal filed by M/s. Sara Services & Engg. Pvt. Ltd., is whether Hammer Union, Chickson Pipes and Swivel Joints manufactured by them are classifiable under Sub-heading 8479.10 of the schedule to the Central Excise Tariff Act or as parts under sub-heading 8479.90 as confirmed by Commissioner (Appeals) in the Impugned Order.

2. Shri P.R. Mullick, Id Chartered Accountant, submitted that all the impugned goods have individual function and as such will be rightly classifiable under sub-heading 8479.10; that Hammer Union provides Hydraulic pressure to different air, water, oil or gas applications; that chickson pipes is an appliances to carry water, air, oil, gas as per requirements of the customer; that it is not a part but a mechanical appliances, assembled with different parts having individual functions; that Swivel Joints is also a composite mechanical appliances used for fluid handling, and items, rotary and circulating hose flexible high pressure adjustments. The Id. Chartered Accountant also relied on Note No. 4 of Section XVI which provides that where a machines consists of individual components intended to contribute together to clearly defined function covered by one of the

heading in Chapter 84 or Chapter 85, then the whole falls to be classified in the heading appropriate to that function. The ld. Chartered Accountant contended that all the impugned goods are parts of a composite machines and in terms of Note 4, these are to be classified as machines under Sub-heading 8479.10 (Sic.) that all the impugned goods individually consists of integrated collection of several objects which interact in unison with each other. He, further, mentioned that the adjudicating authority has wrongly relied upon the decision in the case of Ambica Wood Works v. State of Gujarat SIT 1980 Gujarat High Court 216; that in that case it was held by the Court that in order to be a machinery it should have a complete and integrated collection of several objects or articles and these objects should interact in unison or with each other. He argued that all these mechanical appliances are not parts of machines but are integrated collection of several objects and as such these are classifiable as machines.

3. Countering the arguments, Shri M.P. Singh, ld. DR, submitted that it is not correct to say that whatever thing has got specific function will be a separate machines; that the impugned goods are being used as parts in their own machines; that it cannot be said that all the impugned goods can function on their own; that all parts of a machines performs some specific function and it does not mean that each part is machine by itself. The Ld. DR. also mentioned the Note 4 to Section XVI is not applicable while classifying the individual parts; that the note comes into picture only when the machines (including combination of machines), consisting of individual components, is to be classified; that in the present case it is in not dispute that all the impugned goods are cleared as such without being used in fabricating a machines.

He also relied upon the decision in the case of I.C.B.(P) Ltd. v. CCE, Baroda, 1997 (95) E.L.T. 239 (Tribunal) and Buckau Wolf India Ltd. v.CCE, Bombay 1997 (95) E.L.T. 118 (Tribunal), wherein it was held that Note 4 is applicable only when a machines is for classification and that machine consists of all various individual components. The machines consists of individual component could be a machines in the Knocked Down Condition. This note is not applicable when classification of the parts is under consideration.

4. We have considered the submissions of both the sides. It is not in dispute that all the impugned goods are cleared as machine. The sub heading 8479.10 (sic) covers only machines having individual functions not specified or included elsewhere in Chapter 84. The fact that the impugned goods perform a specific function in B.O.P. control unit does not make them the machines by itself as individually they cannot perform the functions which a machines performs. A perusal of the technical brochure, submitted by the Appellants also indicates that the impugned goods are nothing but parts. We agree with the ld. DR that Note 4 to Section XVI of the Central Excise Tariff is not attracted while classifying the parts separately. The note is applicable only in a case where the machine consisting of individual components intended to contribute together a clearly defined function, is to be classified.

As in the present matter individual components are being cleared they have to be classified as parts under heading 8479.10 (Sic.).

Accordingly the appeal is rejected.