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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-01-2000

Reported in : (2001)(127)ELT836TriDel

Appellant : Videocon Appliances

Respondent : Collector of Customs

Judgement :

1. At the very outset Sh. M.P. Devnath, Advocate submitted that the present appeal was filed under the Customs Act while the Registry has listed it as an Excise Appeal. We find that in para 8A of the appeal the appellants have referred to the Customs Tariff Act. The Registry may amend the number accordingly.

2. The matter relates to the classification of Springs and Timers. The importers declared them as part of washing machines classifiable under subheading 8450.90 of the Customs Tariff Act. The goods were cleared by the customs under concessional rate of duty. Subsequently three show cause notices were issued by the Central Excise authorities at Aurangabad demanding differential duty on the ground that both the Springs and Timers were seperately described in the Customs Tariff.

3. We have heard Sh. M.P. Devnath, Advocate for the appellants. Shri S.N. Singh, SDR is present for the respondents. We have carefully considered the matter. Under Note 2 of Section XVI of the Tariff, the parts which are the goods included in any of the headings of Chapters 84 or 85, are in all cases to be classified in their

respective headings. In other words, if any parts are separately classifiable under any one or the other of the specific heading in the Tariff then irrespective of the fact that they were parts suitable for use with any particular machinery, they would not classifiable under that specific heading.

4. We have gone through the respective tariff headings which the appellants have claimed for classification and those which the Revenue had pressed for classification.

5. As regards Springs we find that there is a separate heading. Heading No. 73.20 which covers the following "Springs and leaves for springs, of Iron or Steel". The goods in question were Springs. As they were specifically described under Heading No. 73.20, then they would be classifiable therein irrespective of the fact that they were meant for washing machines. All Springs are meant for one or the other machinery items. In view of the specific Section Note as referred to above in all cases they will be covered under Heading No. 73.20.

6. As regards the Timers, the Revenue had pleaded that the same was classifiable under Heading No. 91.07. The Heading No. 91.07 covers Time Switches with clock or watch movement or with synchronous motor. From the product description we find that the goods were simply Timers and they were not with the clock. We also consider that they were not in the nature of watch movement which had been described in Chapter Note 3 under Chapter 91 as under: "For the purposes of this Chapter, the expression 'watch movements' means devices regulated by a balance-wheel and hairspring, quartz crystal or any other system capable of determining intervals of rime, with a display or a system to which a mechanical display can be incorporated. Such watch movements shall not exceed 12 mm in thickness and 50 mm in width, length or diameter." 7. We therefore, consider that the Timers were not covered by Tariff description under Heading No. 91.07. As the only alternative is between the Heading No. 91.07 as claimed by the Revenue and sub-heading 8450.90 as placed for classification by the importers, we consider that in so far as the Timers are concerned the view taken by the importers is more appropriate.

8. Thus in so far as the Spring is concerned the appeal is dismissed and in so far as the Timer is concerned the appeal is allowed. Thus the appeal is partly allowed. Ordered accordingly.

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