

Collector of Customs Vs. Hindustan Machine Tools Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-12-1983

Reported in : (1987)(31)ELT296TriDel

Appellant : Collector of Customs

Respondent : Hindustan Machine Tools Ltd.

Judgement :

2. In this case, the appellants imported certain parts for manufacture of Sliding Headstock Automatics which are machine tools for working on metals and therefore classifiable under heading 84.45/48 of the Customs Tariff Act, 1975. The appellants wanted assessment of these parts under this heading on the ground that the subject parts were replacements for earlier goods short-shipped and which were assessed at 40%. ad-val.

under heading 84.45/48, except item 6. They, however, added in the course of the arguments before us that even item 6 was a part of the above machine tool. Their claim was dealt with by the Assistant Collector and the Appellate Collector in terms of exemption Notification No. 35/79-Cus. and rejected on the ground that according to this notification the parts themselves should fall under one or more of the tariff headings specified in the notification while the subject parts fell under headings not so specified. During the hearing, the Department's representative accepted the position that in terms of Notification No. 35/79-Cus. it is the machine to be manufactured which should fall under one of the headings specified in the notification and not the parts imported for the manufacture of that machine. He

conceded that the contrary view taken by the lower authorities was not correct.

On careful consideration of the matter, we agree with him. Accordingly, we remand the case to the Appellate Collector for a fresh decision in terms of Notification No. 35/79-Cus. within four months from the date of this order. The appellants are directed to produce the required certificate of the competent authority and an affidavit for end-use of the subject parts in terms of the notification, before the Appellate Collector, within three months from the date of this order. The appeal is disposed of accordingly.

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