

**Central Railways Vs. the Collector of Customs**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Apr-18-1983

**Reported in :** (1983)LC1820DTri(Delhi)

**Judge :** D Lal, K Rekhi, V R Devi

**Appellant :** Central Railways

**Respondent :** The Collector of Customs

**Judgement :**

2. This is a revision application to the Central Government (now transferred to the Appellate Tribunal under Section 131B) against the order-in-appeal No. S/49-1041/76 CS dated 27.11.1976 passed by the Appellate Collector of Customs, Bombay. Hence this appeal before us.

3. The short point for decision in this case is that certain rubber components ('O'-rings) for under floor wheel lather were imported and the appellants sought classification thereof under item 72(.s)/72(b) ICT 1934. The claim of the appellants was rejected by the Assistant Collector as well as the Appellate Collector holding that the goods were correctly classified under tariff item 39(1) of ICT. It has been argued by Shri Badigar, on behalf of the appellants, before us that the impugned goods were specially ordered according to the specifications of the Indian Railways and in proof thereof he has brought a catalogue.

Further, from the invoice we observe that the said 'O'-rings have been specifically mentioned in the customs attested invoice and reference against each item 'O'-rings has been made to a particular drawing. The drawings in question were also shown.

4. In view of these facts, the appellants seek relief by way of classification under item 72(3; read with item 72(b) of ICT instead of item 39(1) of the ICT.5. Shri Derashri, the learned representative for the respondent, has submitted. that the goods in question are in the nature of consumables and not components of machinery within the meaning of item 72(3 )/72(b) ICT. According to Shri Derashri, the original classification of the subject articles is correct and the appellant have no case on merits.

6. We have heard both the parties and carefully considered the matter.

We observe that the appellants have produced for inspection the catalogue, drawings etc. in support of their contention that the 'O'-rings were specially made to be fitted to the railway underfloor wheel lather and they were not consumables or ordinary articles of rubber. We have seen the attested invoice where various 'O'-rings have been specifically linked with catalogue numbers and/or drawings with regard to which these have been made. In the result, we set aside the appellate order and direct that the goods be re-classified under item 72(3) read with item 72(b) of ICT and consequential relief granted to the appellants. The appeal is allowed accordingly.

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