

Accurate Engineering Co. and ors. Vs. Collector of Central Excise and

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-14-1986

Reported in : (1986)(8)ECC1

Appellant : Accurate Engineering Co. and ors.

Respondent : Collector of Central Excise and

Advocate for Pet/Ap. : Shri. S. Ganesh

Judgement :

1. Appeals Nos. E. 399/81-D and E. 1387/81-D involving similar issues, had come up before Special Bench "D" on 27-6-1985. The issue is whether "Needle Cages" or "Needle Roller Cages" are classifiable under item 49 or under item 68 of the First Schedule to the Central Excises and Salt Act. 1944 (CET for short). The very issue had earlier come up before the Special Bench in the case of M Is. Needle Roller Bearing Co. Ltd., Aurangabad and the Bench, vide its orders Nos. 140 and 141/84-D, dated 12-3 1984 1984 (17) E.L.T. 469 had held that the goods were classifiable under item 68.CET. When the appeals of Accurate Engineering Co. and Universal Engineering Co. came up before the Bench on 27-6-1985, the Departmental representative submitted that certain material aspects had not been placed before the Bench when it heard the Needle Roller Bearing Co. case and that taking into account these aspects, classification should be held to be under item 49, CET.2. The Bench, after hearing both sides, reserved its order. However, for the reasons set out in its note dated 28-6-1985, the Bench recommended to the President of the Tribunal that a Larger Special Bench might be constituted to

hear two appeals and also appeal No. E.2149/83-D of M/s. Deepak Insulated Cable Corporation Ltd. where also the same issue was involved. Accordingly, the president, by his order of 10-7-1985 constituted the present 5-Member Bench to hear all the three appeals.

3. By an application dated 3-10-1985, M/s. Needle Roller Bearing Co.

Ltd. sought leave of the Bench to intervene at the hearing of the aforesaid three appeals. This application came up for consideration on 7-10-1985. After hearing Shri S. Ganesh, Counsel for the applicant and K.C. Sachar, Departmental Representative who opposed the application, the Bench, vide its Misc. Order No M-135/85-D, dated 7-10-1985, allowed the application.

4. The parties to the three captioned appeals as well as the intervener were heard at length on 7-10-1985 and 8-10-1985.

5. For a proper appreciation of the arguments, it is necessary, even at the outset, to keep in focus the two competing tariff items which are reproduced below : "49. Rolling bearings, that is to say, ball or roller bearings all sorts" 6. The gravamen of the assessee's contention in the Needle Roller Bearing Co. case (decided by the Bench vide Orders Nos. 140 and 141/84-D dated 12-3-1984 1984 (17) E.L.T. 469 was that needle roller cages were only a part or component of bearings and not complete bearings in themselves, and that since item 49, C.E.T. covered only complete bearings, parts of bearings correctly fell under item 68. A complete needle roller bearing consisted of four parts :- The article in dispute was a combination of the parts at (iii) and (iv) i.e. a cage with needle rollers fitted into it.

(ii) I.S.I. Glossary of Terms. IS : 2399 : 1964 (reaffirmed in 1977); the Bench came to the view that a needle roller cage was only a part or component of a roller bearing and not a complete bearing in itself. The cage could perform the function of a bearing only when the machinery mechanism already incorporated a housing or a shaft which served as substitutes for the outer race and the inner race. But that would not make the cage itself a complete bearing. Without the support of a housing or outer race, the cage was simply incapable of taking the required load; it would break in the process. On this basis, the Bench held that the correct

classification was under item 68, CET and not item 49.

7. When appeals 399/81-D, and 1387/81-D were taken up for hearing on 27-6-1985, the Departmental Representative did not deny that the goods in these cases were similar to those covered by the Needle Roller Bearing Co. case. It was, however, his contention that, having regard to I.S. 4216-1967 and I.S. 4216-1981 the correct classification of needle cages was under item 49/C.E.T. as "bearings, all sorts".

However, none of the parties placed before the Bench any authoritative work of reference to show what were the essential components of a bearing. The Bench, then, consulted- (i) The Encyclopaedia Britannica (15th Edition 1982) Macropaedia Vol. 11, p. 249 et seq.

(ii) How things work "Vol. 2 published by Granada Publishing Ltd. (1982)- P. 170 et seq.

(iii) Mark's Standard Handbook for Mechanical Engineers. English Edition- P. 8.136 et seq.

8. Shri S. Ganesh, learned Counsel for M/s. Deepak Insulated Cable Corporation Ltd. as well as for the intervener (M/s. Needle Roller Bearings Ltd.) submitted that no new material had been brought on record by the department warranting reconsideration of the classification already decided by the Tribunal in the Needle Roller Bearing Co. Ltd. case. Based on the evidence placed before it, the Bench had come to the conclusion that the needle cage by itself and without an outer and inner race (or, in their place, a housing and shaft) was not a complete bearing but only a component part. A cage by itself could only overcome friction but not bear loads whereas a rolling bearing should be able not only to overcome friction but also bear loads. The end-use criterion was discarded and the commercial parlance test was adopted. In this context, the counsel relied upon the Tribunal's decisions in-Bharat Heavy Electricals Ltd. v. Collector of Customs, Bombay-1983 E.L.T. 1976 (on needle bush bearings stated to be similar to needle cages, ruled to be under item 49 C. E.T.)Mukund Engineering Works v. Collector of Central Excise, Ahmedabad 1983 E.L.T. 816 (Jockey Pullys held to be not falling under item 49

C.E.T.) (i) Board's Tariff Advice on needle rollers with cage as reported in Bangalore Collectorate Trade Notice No. 176/71, dated 4-9-1971; (ii) The expert opinion dated 5-2-1983 of the Central Machine Tool Institute on needle cage assemblies which was placed before the Collector (Appeals) but remained unrebutted by the Department.

9. The Counsel then referred to IS : 2399-1964, IS : 4216-1981, the I.S.O. Draft Standard, the Customs Co-operation Council Nomenclature (C.C.C.N.), the German Standard DIN 5407 and DIN 5401. the sale invoices, and manufacturer's catalogue, in support of his contention that the goods were only parts of needle roller bearings and were sold as needle roller cages and not as needle roller bearings.

10. Shri S. Ganesh then relied upon certain passages from the catalogue of Torrington, stated to be a leading manufacturer of "Caged Roller Assembly", "How Things work", "Encyclopaedia Britannica and Marks" "Standard Handbook for Mechanical Engineers" in support of his contention that the outer and inner race may be substituted by a housing and shaft specially designed for the purpose but these also could not be dispensed with nor could the needle cage perform all the functions of a bearing.

11. Shri N.C. Trivedi, learned Counsel for M/s. Accurate Engineering Co. and Universal Engineering Co., adopted the arguments advanced by Shri S. Ganesh.

12. In reply, Shri K.C. Sachar, learned Departmental Representative, submitted that it was incorrect to say that there should necessarily be an outer race and inner race to make a complete bearing. The catalogue of the manufacturers showed needle roller without inner rings. The C.C.C.N. explanatory note at page 1381 spoke of a cage without rollers as part of a roller bearing. The present goods were, however, cages with rollers. The said note, therefore, was not applicable. The Encyclopaedia Britannica (p. 250) showed that needle rollers could be inserted with or without retainers and with or without races. The goods were ; manufactured for use as bearings and in the Accurate Engineering Co. and Universal Engineering Co. cases, the assessee had submitted classification lists classifying the goods as bearings under item 49, C.E.T. (Counsel Shri Ganesh said that the

assessee later submitted classification lists under item 68, C.E.T. which were approved by the Assistant Collector) IS : 4216-1967 showed that needle cages were used as a type of rolling bearing. Applying the principle laid down by the Supreme Court in *Empire Industries Ltd. and Ors. v. U.O.I. and Ors.*-1985 (20) E.L.T. 179, this would be good evidence of the trade understanding of needle cages. The book "How Things Work" also supported the above position. Shri Sachar concluded by submitting that the correct classification was under item 49 and not under item 68, C.E.T.13. We have carefully considered the submissions of both sides. It appears to us that the state of the evidence has not improved to any significant extent in these proceedings compared to that in the *Needle Roller Bearings Co. Ltd.* case. However, we shall consider the material placed before us.

14. (i) In accordance with the observations of the Supreme Court in the *Empire Industries* case (*supra*), Glossary of Terms published by the I.S.I. could be considered as a credible guide to the trade understanding of products. The "Glossary of Terms relating to Rolling Bearings"-IS : 2399-1964 says in para 0.2 that the said standard had been prepared for the guidance of manufacturers and consumers to assist them in the correct interpretation of the common terms used in the bearing industry and establish a generally recognised usage. Para 0.4 shows that the views of the producers and consumers had been taken into consideration and that the standard was related to the trade practices followed in India, due consideration being given to standards of the International Organisation for Standardization (I.S.O.).

"Cage" (roller cage) is defined as "A device which partly surrounds the rolling elements and travels with them, the main purpose of which is to space the following elements." "Needle Roller" is defined as "A load carrying rolling element long in relation to its diameter" "Needle Roller Bearing" is defined as "A bearing having a full complement of rolling elements, generally long in relation to their diameter, and roller guidance attained only by circumferential clearance within the complement." (ii) IS : 4215 : 1967 - (sic) the requirement of needle roller bearing (generally referred to as needle bearings) used for high radial loads and speeds for the following three types : (a) With inner ring (needle roller set retained between outer and inner ring); (b) without inner ring (needle roller set remained in

outer ring only); and (c) without outer ring (needle roller set retained on inner ring only) It is stated that the needle bearings without inner ring are rolling bearings to plain bush dimensions and are used in place of plain bushes. Needle bearings without inner ring are similar to that of the normal roller bearings.

(Rings as per IS : 2339-1964 are synonymous with races. So, the inner ring and outer ring of a needle roller bearing are the same thing as its inner race and outer race.) (iii) German Standard DIN 5407 shows roller cage assemblies as components of Roller bearings.

(iv) While IS : 4216-1967 ("Specification for Needle cages") says that "needle cages are generally used as a type of rolling bearing offering high load carrying capacity with reduced cross-sectional area", IS : 4216-1981-("Specification for Needle cages"-First Revision) specifies the requirement of 4 types of "needle cages" used as a component of rolling bearings assembly for high load carrying capacity." (v) Shri V.B. Sridharan, Senior Scientist, Central Machine Tool Institute, Bangalore, has stated in his letter dated 5-2-1983 to M/s. Deepak Insulated Cable Corporation Ltd. as follows :- "Any Rolling Bearing should have two elements i.e. outer ring and the inner ring between which are interposed the rolling elements, to fulfil the functions of a bearing. The load/motion is transmitted through the rolling elements between the inner and outer elements through the rollers. In a roller cage assembly consisting of only set a of rollers held together by a cage, this condition is not satisfied. The roller cage only functions as a spacer to provide spacing between the rollers and does not perform load carrying or load transmitting function. Therefore, needle cage assemblies, in our opinion are to be treated only as a component of bearings similar to needle rollers. " It needs to be mentioned that this opinion has not been rebutted by the Department. It accords with the description of needle roller cage assemblies as components of roller bearings in I.S.4216 : 1967 and the German Standard DIN 5407.

(vi) C.C.C.N. heading 84.62 reads : "Ball, roller or needle roller bearings". The explanatory note under this heading states- "Normally, bearings consist of two concentric rings (races) enclosing the balls or rollers, and a cage which keeps them in place and ensures that their spacing constant, The heading also covers

parts of ball, roller and needle roller bearings e.g. : Rings, Cages, fixing sleeves etc." (vii) International Standard I.S.O.-5593-1984 ("Rolling bearings-Vocabulary")-First Edition 1984-07-01 (published by the International Organisation for Standardization) states in the foreword that the said standard was circulated to the member bodies in June 1983 and was approved by the member bodies of 22 countries including India.

It contains the following definitions :- Rolling bearing.-A bearing operating with rolling (rather than sliding) motion between the parts supporting load and moving in relation to each other. It comprises raceway members and rolling elements with or without means for their spacing and/or guiding. May be designed to support radial, axial or combined radial and axial load." "0,2 Bearing Parts- 02.01.19 A bearing part which partly surrounds all or several of the rolling elements and moves with them. Its purpose is to space the rolling elements and generally also to guide and/or retain them in the bearing." "03-Bearing arrangement and sub-units" is to be found : "03.03.01-Rolling element and cage assembly. A sub-unit consisting of rolling elements and cage of a rolling bearing." (viii) The catalogue of TORRINGTON-stated to be a leading manufacturer of "Caged Roller Assembly", at page 76, describing the construction of its product, says : "In fact, since the bearing must use the housing as its outer ring and the shaft as its inner ring the only limit to the precision possible is the capability of the equipment manufacturer to hold the tolerances of his housing and shaft".

It goes on to spell out the necessary specifications that the outer race should conform to since the housing must serve as an outer race for a caged roller assembly. So also it spells out the specifications for the shaft design in order to take full advantages of the high radial load capacity of the caged roller assemblies.

At page 116, it is stated that with "this type (needle roller) of bearings, the ultimate in antifriction load capacity is obtained in minimum space. However, the load capacity depends directly upon the hardness of the shaft and outer raceway." (ix) Extracts from "Bearing Design and Applications" by Donald F. Wilcock and E. Richards Boosen (First Edition page 24,15)-Ex. 1-D in Universal Engineering Company's paper book-says : "In general, a roller bearing consists of four principal

elements-an inner ring or race, an outer ring or race, a complement of rollers, and a separator or spacer for the rollers. In some cases, the inner ring is made an integral part of the shaft instead of a separate member which is mounted on the shaft. The outer ring is normally mounted in a stationary housing, although occasionally the inner ring may be stationary while the outer ring rotates. The rollers space the inner and outer rings apart and provide for smooth relative motion between them. The separator in turn keeps the rollers spaced uniformly and prevents them from rubbing together or bunching on one side of the bearing."

(x) The Head of the Department of Mechanical Engineering, Government L.D. College of Engineering, Ahmedabad has given an investigation report (dated 10-3-1981) of the caged roller assembly of M/s.

Universal Engineering Company (Ex. 2 in the paper book) which reads as follows :- "In general, a roller bearing consists of four principal elements viz. an inner ring or race, an outer ring or race, a complement of rollers and separator or spacer for the rollers.

The caged roller assemblies, AB-2025, AB-2028, AB-9810, AB-2030 and AB-7050 submitted by the party consist of only two principal elements-a complement of rollers and a separator-cum-holder for rollers. These caged roller assemblies cannot work independently as roller bearings.

If they are used on proper shafts with proper housing, they will work as roller bearings in which outer surfaces of shaft will work as inner races and housings as outer races. Also they can work as roller bearings if they are provided with inner and outer races.

Hence caged roller assemblies alone cannot be defined as roller bearings but can be defined as elements of roller bearing." (xi) Letter dated 3-2-1981 from the Principal of the Government Polytechnic, Porbander to M/s. Accurate Engineering Company (to be found in the paper book of the said appellant) stating that some of the letter's products are in conformity with I.S. 4125-1967. They are classified as caged roller assemblies, one of the important components of the complete bearing. It further states that the caged roller assemblies independently cannot work as bearing and, therefore, they cannot be classified as the complete bearing.

(xii) The catalogue of DURKOPPWERKE GMBH BIBLE FELD, GERMANY (Ex. 4 in the paper book of M/s. Accurate Engineering Co.) states that their "needle cages can be used as a independent element if the shaft and the housing bores are hardened and ground so that they can be used as direct bearing points. As the cages take up very little space and are capa-able of carrying heavy loads, they make bearing arrangements, while meeting the requirements for a high load-carrying capacity within a limited space. Amongst the advantages afforded by these cages is listed : "Can be employed as high precision bearings e.g. for machine tools, as it is possible to obtain even the smallest bearing play." The catalogue also illustrates and describes needle cages separately from needle bearing. At page 26, it says : "DURKOPP needle bearings consist of one or two raceways and a needle cage which provides accurate guidance and secure retention of a large number of needles. A remarkable attribute of these, needle bearings is their high radial load carrying capacity in relation to their small cross-section." (xiii) The book "How things work". The Universal Encyclopaedia of Machines-(Vol. II)-(Published by Granada Publishing Ltd.) at page 170 et seq. the "New Encyclopaedia Britannica-Macropaedia Vol. 11" (at page 249 et seq) and Mark's "Standard Handbook for Mechanical Engineers" (8th Edition) published Mcgraw-Hill Book Company (at page 8-136 et seq) have passages on rolling bearings the gist of which is as follows :- (a) A rolling bearing normally comprises of two annular components known as races, the rolling elements, balls or rollers, and a cage for retaining the rolling elements in position.

(b) Under certain conditions, one or both of the races may be omitted in which case the rolling elements run directly in contact with the shaft and/ or the housing in which it is mounted.

(c) The cage does not participate in the transmission of forces but may, in certain circumstances, be severely stressed by internal forces, vibrations and impact effects. The choice of material for the cage is determined by consideration of strength, machinability etc. In contrast, the rolling elements are made of very high grade steel and uniform texture and high resistance to wear in view of the high local stresses of varying magnitude occurring in the rolling elements.

(d) If the outer/inner races are dispensed with, the housing/shaft of the machine must be suitably hardened and ground.

14. From the above analysis of the available evidence, we are inclined to think that there is more evidence in support of the view that the expression "Needle Roller Bearing" is meant to cover the assembly of needle rollers with a cage and the inner and outer races. Of course, in specialised situations, the inner and/or outer races could be done away with, the housing or the shaft of the machine taking the place of the outer and inner races respectively. In such an event, the housing and/or shaft, as the case may be, have to be specially machined or ground for the purpose. The preponderance of literature on the subject tends to show that the needle cage with the assembly of rolling elements is considered as a component part or as a sub-assembly of needle rolling bearings. Item 49, GET does not cover parts or sub-assemblies of rolling bearings. Hence, the correct classification of the subject goods would be under item No. 68 GET. In *Mukund Engineering Works, Surendra Nagar v. Collector of Central Excise, Ahmedabad-1983 E.L.T. 816*, the Tribunal considered the classification of "Jockey Pulleys", the competing items, again, being 49 and 68 of the GET. The article as seen from the said Order, consisted of in-built bearing parts such as steel balls, a cage and bearing housing and other component of the Pulley-as assembly of several components with bearing parts integrally built in. The whole assembly made up a Jockey Pulley which was an essential component part of textile spinning machine, used for rotating the spindles. Evidence was led by the assessee to show that Jockey Pulleys were not known in the trade as bearings. In the absence of any evidence to show that the goods were known in the trade as bearings, the Collector's decision classifying Jockey Pulleys under item 49, GET was set aside by the Tribunal. We do not think that this decision has any direct relevance or application to the present case because the goods before us do not have a bearing housing and barring the cage and rollers, do not contain any other components and are not, therefore, similar to Jockey Pulleys. In *Bharat Heavy Electricals Ltd., Bombay v. Collector of Central Excise, Bombay-1983, E.L.T. 1176*, the goods were bush bearings which did not have races and balls/rollers and were other than ball or roller' bearings- a position that could not be controverted by the Revenue. Again, this decision is of no relevance to the present case, the goods in dispute being

dissimilar.

17. In re : Mis. Jain Brothers, New Delhi-1981 E.L.T. 384, the Government of India was concerned with water pump spindle bearings also known as integral shaft bearing, having two widely spaced rows of rolling elements with a common, one piece outer ring with a shaft integrally fitted to the bearing. Having regard to its construction, function and usage, Government held that the article was essentially a machine part assembly incorporating inter alia a bearing in its construction and as such ceased to be just a ball bearing. It was classified as a part of a water pump and not liable to be charged to additional duty of customs under Item No. 49 GET but under item 68. The goods, before us do not bear any resemblance to the abovesaid goods.

However, the decision lends some support to the appellant's stand since, even though the article contained all the ingredients required in a rolling bearing, it was held to be a machinery part and not a ball or roller bearing because of its peculiar characteristics. In the case before us, according to the appellants, all the ingredients required for a complete roller bearing are not present and so the article, they say, is not classifiable as rolling bearing under item 49, CET.18. In the light of the foregoing discussion, we hold that the subject needle cage assemblies consisting of needle cages with rolling elements do not constitute "rolling bearings" as envisaged in item 49; CET. Therefore, they must be held to fall under item 68, CET. In the result, the appeals are allowed with consequential relief.

19. I have carefully perused the order prepared by Shri G. Sankaran, Vice-President and concurred in by Shri K.L. Rekhi and Shri Harish Chander. With respect I am unable to concur with their conclusion. It is, therefore, necessary for me to record a separate short order giving my reasons.

20. Paragraphs 1 to 11 and 13 of the order prepared by the Vice-President in proper detail narrates the history of the case as well as the submissions by both sides and the evidence relied upon. It is, therefore, unnecessary for me to repeat the same. The question at issue is whether the article manufactured by the appellants and the intervener, which they describe as a "Needle cage with Needle rollers", would be but a component only of a Needle Roller bearing, or whether the

same would qualify for classification as a Needle Roller bearing under T.I. 49, CET. Normally, no doubt, a Needle Roller, Bearing may consist of an outer race and an inner race between the two of which would be fitted the cage with the Needle Rollers inserted in the cage.

Needle Roller Bearings are manufactured for being fitted into machines at suitable points where they serve the purpose of avoidance of friction between the moving parts as well as with standing 'Axial' as also 'Radial' thrusts. It would be correct to say that in such conventional Needle Roller Bearings the Needle cage would be but a part of the entire bearing. But there is no dispute that the articles manufactured by the appellants and the intervener (which are the subject matter of the present dispute) are specially manufactured for being fitted at the necessary points in the machinery directly without the need for an inner or outer race.

This is achieved by the shaft as well as the outer housing being sufficiently hardened or ground so that they take the place of the inner and outer races. It is not the case of either the assessee or the department that the articles so manufactured are purchased for being fitted into suitable inner or outer races to fabricate conventional needle roller bearings for subsequent use in machinery requiring use of such bearings. It is, therefore, clear that the articles under scrutiny serve the entire purpose of avoidance of friction as well as withstanding axial and radial thrusts at the suitable points in the machinery. That is to say, these articles serve the entire purpose which the Needle Roller Bearings manufactured in the conventional way serve. The question is whether merely because the inner shaft and outer housing are suitably manufactured by the machinery manufacturer himself, and the need for the inner and outer races is thus avoided, the article manufactured by these appellants and the intervener would cease to qualify as Needle Roller Bearings, though, as mentioned above, they serve all the purposes which a conventional needle roller bearing serves. A Roller Bearing is a functional part, and, it appears to me, whatever serves that function would qualify to be called under that name, though such an article may not conform to the original conventional article. Technological improvements have obviated the need for the inner and outer race. The requirement of space saving in the concerned machine led to such technological improvements.

21. No doubt, the appellants claim that the articles manufactured by them are marketed by them as Needle cages with rollers and not as Needle Roller Bearings. It is pointed out that the department has not led any evidence to establish that the articles under consideration are described or enumerated either by the manufacturers or by the customers as Needle Roller Bearings themselves. But in this connection, we may note that there are other materials available which by themselves would be sufficient to establish the case for the department. In the Explanatory Note at page 4 of I.S. : 4216-1981 it is mentioned "Needle cages are generally used as a type of Roller Searing offering high load carrying capacity with reduced cross sectional area" This standard has been prepared after ascertaining the views of manufacturers as well as consumers. This would, therefore, indicate that, in the trade, the needle cages with rollers, when manufactured or use directly on the shaft and within the housing (without the use of races), are known and dealt with as Needle Roller Bearings. In the Durkopp Main catalogue also it is mentioned as follows : "Durkopp Needle Cages can be used as an independent element if the shaft and the housing bores are hardened and ground so that they can be used on direct bearing points. As the cages take up very little space and are capable of carrying heavy loads they make for best bearing arrangements, whilst meeting the requirements for a high load carrying capacity within a limited space".

The claim of the manufacturer further answers the point made in the order in the case of Needle Roller Bearing Ltd. (relied on for the appellants) that without the races the cage would crumble unable to bear the weight and, therefore, without the races there could not be a roller bearing.

22. In the Torrington Catalogue it is mentioned (under the heading 'construction') as follows : "In fact since the bearing must use the housing as its outer ring and the shaft as its inner ring the only limit to the precision possible is the capability of the equipment manufacturers to hold the tolerances of his housing and shaft." This also shows that the manufacturer is himself referring to the cage assembly (the product before us) as the bearing itself. This would also indicate that the product under consideration is known to the trade as a roller bearing itself though, in conventional needle roller bearings, the cage assembly would only be a

component.

23. It was urged by Sri Ganesh that if the interpretation now put forward is to be pressed home further, it may be necessary in cases where needle rollers alone (even without cages) are used for antifriction purposes, it would be necessary to classify these needle rollers themselves as bearings and this would be contrary to even accepted notions. It appears to me that it would be unnecessary to consider such a contention in the present context and that the consideration thereof will have to be reserved for an occasion when the need for such an interpretation is pressed for acceptance.

24. It, therefore, appears to me that when, with the advance of technology, parts of a conventional bearing are dispense with, the remaining parts alone serving the essential purposes of ball or roller bearings (though suitable modifications of the machinery in which the bearings are to be installed may be necessary in this connection), the part which is installed (and suffices to discharge the essential characteristics of a ball or roller bearing) should be classified as such a bearing, since T.I. 49 item reads as under : "Roller bearings that is to say, ball or roller bearings, all sorts." The passages in Encyclopaedia Britannica, Mark's Standard Handbook for Mechanical Engineers and the book "How things work" (referred to in the order that necessitated the reference to the Larger Bench) also refer to bearings with or without either or both races. For instance in the passage in the Encyclopaedia Britannica Macropaedia, Vol 11 (15th Edition), it is stated at page 250 as follows: "Roller bearings : These bearings have rollers instead of balls between the races The rollers may be cylindrical, tapered, or spherical. Cylindrical roller bearings have rollers with a length to diameter ratio of about one and run in cylindrical races, one of which may have retaining shoulders; they cannot carry a thrust load.

Needle bearings have long, small-diameter rollers and may be installed with or without retainers and with or without races When no races are used, the surfaces on which the needles roll must be hardened" In the book "How things work", the Universal Encyclopaedia of Machines, Vol. 2. published by Granada, 1982 Edition, it is stated at page 170 as follows : "Ball and roller bearings are collectively

referred to as "antifriction bearings". A bearing of this type normally comprises two annular components known as races, the rolling elements (balls or rollers), and a cage for retaining the rolling elements in position. The races and other components are so designed as to achieve as far as possible pure rolling motion without additional sliding motion associated with friction. Under certain conditions one or both of the races may be omitted, in which case the rolling elements run directly in contact with the shaft and/or the housing in which it is mounted." References in such authoritative books would also support the conclusion that persons connected with the trade and commerce and who deal with the product in question treat the same as a needle roller bearing, though it has no inner or outer race.

25. So far as the certificates from the Head of the Department of Mechanical Engineering, Government College of Engineering, Ahmedabad, the Principal of the Government Polytechnic, Porbandar and Sri Sridharan, Senior Scientist of the Central Machine Tools, Bangalore, it may be seen that they all accepted the fact that the needle cage assembly in question served the purpose of bearing (on the shaft and outer housing being suitably hardened) but that in their opinion such needle cage assemblies are to be treated only as a component as they do not perform load carrying or load transmitting functions. But this conclusion would not be acceptable since, as mentioned in the catalogues of major manufacturers referred to above, these cages are so manufactured as to be capable of carrying heavy loads.

26 Therefore, I am of the opinion that the product manufactured by the appellants falls for classification under T.I. 49, CET, and their appeals therefore, are to be dismissed.

27. But in view of the opinion of the majority of the Members of this Bench (as mentioned earlier) I concur with their order of allowing the appeal.

28. I have carefully gone through the Order of brother G. Sankaran concurred in by brothers K.L. Rekhi and Harish Chander and the dissenting view of brother V.T. Raghavachari.

29. With due respect to the views expressed by brother Raghavachari, I would go along with the majority view. The reason for this is that in commodity taxation for purposes of classification what is pertinent is to establish as to what the product is. This has to be done with reference to the composition and commercial identity of the product and not with reference to the functions which a product performs or the use to which it is put unless this is specifically provided for in the Tariff entry itself. Once it is conceded that a needle roller bearing consists of an outer race and an inner race and it is between these two that there is fitted a cage with needle rollers inserted in the cage, then it is difficult to argue that the needle cage with needle rollers, because of the functions that it can perform in a machinery mechanism which incorporates the housing or a shaft, can by itself be considered as a complete needle roller bearing. The explanatory note at page 4 of IS : 4216-1981 only shows that needle cages can be used as a type of roller bearing in such cases. Similarly, the Durkobb Main catalogue also only emphasises that needle cages can be used for bearing arrangements in certain circumstances. Neither of these authorities identify needle cages by themselves as roller bearings.

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