Jyoti Traders Vs. Commissioner of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jun-27-2002

Reported in : (2003)(161)ELT322Tri(Mum.)bai

Judge : J Balasundaram, J T J.H.

Appellant : Jyoti Traders

Respondent : Commissioner of Customs

Judgement :

1. The appellants herein imported goods described as Honda Engines Models No. GX 160 and GX 200 and Honda Water Pump Model WBK 207 and filed a Bill of Entry on 12-4-1996 for clearance of the goods under Open General Licence (OGL) Exim Policy 1992-1997. Goods examined and found to be "prime movers" and found to be "consumer goods" which required licence for their imports. The examination of the goods showed that they were actually General Purpose Engines which could be used for various purpose.

2. The adjudicating authority held that the case would be covered by the definition of the consumer goods and hence, confiscated the goods with option to redeem them on payment of fine of Rs. 7,65,000/-. Hence, this appeal.

3. We have heard both sides and perused the record. Learned counsel for the appellants relied upon the decision of Tribunal in the case of Asian Power Controls v. Commissioner of Customs, Nhava Sheva, Order No.2340/97/WZB, dated 16-6-

1997 [1999 (109) E.L.T. 994 (Tribunal)] in which the Tribunal held that Honda Kerosene Pumps were not consumer goods as they could not directly satisfy human needs without further processing. The Tribunal found that Honda Kerosene Pump helps to draw either in factory or household and for agricultural purpose and capital goods and are not consumer goods.

4. In the present case also the goods in question have been accepted to be prime movers which cannot function on their own and can function only when attached with generator, pump or compressor. In these circumstances the goods in question are clearly not covered by the definition of the consumer goods in view of the order of the Tribunal cited Supra. Following the ratio of the earlier decision which is directly applicable to the facts of the present case, we set aside the impugned order and allow the appeal.