

Saral Creations Vs. Commissioner of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-12-2002

Reported in : (2003)(85)ECC81

Judge : S T G.R., K Kumar

Appellant : Saral Creations

Respondent : Commissioner of Customs

Judgement :

1. M/s. Saral Creations have filed this appeal being aggrieved by the order passed by the Id. Commissioner (Appeals) holding that - "I do not find any evidence on record to satisfy myself that the Piston Rings exported by the appellants were Pig iron products.

Neither any test report nor composition of the impugned Piston rings has been produced by the appellants. Further, the clarification given by the DGFT is confined to a specific export made by M/s. Indo Java Exports Pvt. Ltd., Ludhiana, and it is not ascertainable at this stage as to under what circumstance and on which evidence the DGFT left that Piston ring sets were pig iron products and whether Piston ring sets exported by M/s. Indo Java Exports Pvt. Ltd., Ludhiana were same, in all respect as the Piston ring exported by the appellants. In such a situation, I find that the evidence on record is not sufficient to establish that the goods were Pig iron products. In view of discussion and findings recorded herein above, I do not find any merit in the appeal".

2. The facts of the case briefly stated are that the appellants are exporters. They presented a shipping bill describing the goods as Automotive Casting (Machined) Piston Rings and claimed the benefit of DEPB. The Dy. Commissioner denied them the benefit holding that the export item in question i.e. Piston Rings has become an identifiable Automobile Engine part and hence it cannot be called at this stage Automotive Casting (Machined). Even in normal commercial parlance, these will be called as piston rings only and not as Automotive Castings. As such by no stretch of imagination, the piston rings can be called as Automotive Castings (Machined). He, therefore, observed : "For the above given reasons and discussions, it is hereby held that the Piston Rings cannot be classified under DEPB Schedule under Group Code No. 61 S. No. 67 as Automotive Castings (Machined)".

3. We have heard Shri M.S. Malhotra, Id. Consultant for the appellant and Smt. Nitu Lal Butalia, Id. DR for Revenue. We note in the instant case that the goods described in the invoice and shipping bill were Automotive Castings (Machined) Piston Ring. We also note that the appellants produced an opinion given by the Office of the Director General Foreign Trade reading as under :- "I am to refer to your letter dt. 18th May 99 regarding export of Piston Ring Sets by M/s. Indo Java Exports Pvt. Ltd., Ludhiana. The matter was considered by the DEPB Committee in the meeting held on 27-5-99. The Committee decided that Piston Ring Sets made of Iron Castings (Machined) are not covered under S.No. 95 of the DEPB rate list. The Committee felt that Piston Ring Sets are Pig Iron Products".

4. The contention of the appellant was that their goods were similar to those mentioned in the opinion given to M/s. Indo Java Exports. This opinion we find is given in respect of Piston Ring Sets. The product in the instant case is Automotive Castings (Machined) Piston Rings. No doubt these are Piston Rings but they had assumed the shape of Automotive Castings (Machined), Examined in the light of the opinion given by the DGFT, we note the fact that the goods had obtained the shape of piston rings for automotive was not disclosed to the DGFT. What was referred to DGFT was only Piston rings. Piston rings may be for various purposes and therefore, would have attracted DEPB benefit only if they were analysed as items for such benefit. We note that the Id. Commissioner (Appeals) examined this

also and found that piston rings did not find the mention under Automotive parts. Having regard to the above, we find no reason to interfere with the order passed by the Id. Commissioner (Appeals). In the circumstances, the impugned order is upheld and the appeal is rejected.

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