Dcm Precision Engineering Vs. Commissioner of C. Ex.

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SooperKanoon Citation : sooperkanoon.com/29015

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-01-2002

Reported in : (2003)(151)ELT65TriDel

Judge : S T G.R., P Bajaj

Appellant : Dcm Precision Engineering

Respondent : Commissioner of C. Ex.

Judgement :

1. M/s. DCM Precision Engineering have filed the captioned appeal. The dispute in the appeal is whether the goods are classifiable under Chapter sub-heading 84.09 as claimed by the assessee by filing the classification list/declaration on 10-11-97 or the goods are liable for classification under Chapter Heading 86.07 as held by the authorities below.

2. The facts of the case in brief are that the appellants are engaged in the manufacture of Cylinder Head Assembly for internal combusion engine used in the Diesel Locomotives. On 10-11-97 the appellants filed a classification list/declaration stating that the goods manufactured by them were classifying under Chapter Heading 84.09 before that the Department was classifying their goods under Chapter Heading 86.07. The authorities issued SCN to the appellants asking them to explain as to why the goods should not be classifiable under Chapter Heading 86.07.

The Asstt. Commissioner classified the goods under Chapter Heading 86.07. On appeal ld. Commissioner (Appeals) upheld classification of the goods under Chapter Heading 86.07 of CETA, 1985 and hence the appeal before us.

3. Shri S.C. Kamra, ld. Counsel arguing the case for the appellant submits that the appellant came to know that the same product manufactured by their competitors was being classified under Chapter Heading 84.09. He submits that the appellant therefore, also filed a revised classification list/declaration on 10-11-97. He submits that cylinder heads assembly manufactured by the appellant is a part of internal combustion engine and therefore, should have properly been classified under Chapter Heading 84.09. Referring to the Note under Chapter Heading 84.09 of HSN Explanatory Notes at page 1249 ld. Counsel submits that it has been stated therein - "Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), this heading covers parts of internal combustion piston engines of heading 84.07 or 84.08 (e.g. pistons, cylinders and cylinder blocks; cylinder heads; cylinder liners; inlet or exhaust valves, inlet or exhaust manifolds' piston rings; connecting rods; carburettors; fuel nozzles)".

Ld. Counsel submits that this chapter is fully aligned with Central Excise Tariff Act, 1985. He submits that the authorities below held that cylinder head assembly is a part of a part of locomotives. He submits that under Chapter sub-heading 84.09, there is a specific mention of cylinder heads and therefore, specific entry under Chapter Heading 84.09 shall prevail over the general entry under Chapter Heading 86.07. Ld. Counsel, therefore, prays that the appeal may be allowed by classifying the cylinder head assembly manufactured by them under Chapter Heading 84.09.

4. Shri Jagdish Singh, ld. DR reiterating the findings of the authorities below submits that no doubt cylinder head assembly is a part of part of locomotives and therefore, it was reasonable for the authorities below to classify it under Chapter Heading 86.07.

5. We have heard the contentions of both the sides. We have also perused Explanatory Notes under Chapter Heading 84.09 of HSN. The note has been reproduced above which specifically covers cylinder heads.

Since cylinder heads are specifically covered under Chapter Heading 84.09, therefore, the general heading under chapter heading as parts of parts under Chapter Heading 86.07 shall not be applicable to the facts of the present case. In the circumstances, we hold that cylinder head assembly for internal combustion engine manufactured by the appellant shall be classifiable under chapter heading 84.09.

6. Since the revised classification list/declaration was filed on 10-11-97, therefore, for the period from Aug., 1997 to 9-11-97, there will be no change in classification and the duty shall be payable under the old Chapter Heading 86.07.

7. The appeal is allowed in the above terms. Consequential relief, if any, shall be admissible to the appellant in accordance with law.