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Hero Cycles Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-07-2003

Reported in : (2004)(165)ELT540TriDel

Judge : S Kang, M T K.D.

Appellant : Hero Cycles Ltd.

Respondent : Cce

Judgement :

1. The issue in the instant appeal relates to the central excise duty liability on "Tools & Dies" (sub-heading No. 8207.00) The appellants manufactured the said "Tools and Dies" and used the same captively for manufacturer of bicycle and parts thereof (sub heading No. 8712.00 & 8714.00 respectively) and Rims for mopeds and Motor Cycles (sub heading No. 8714.00). Pursuant t the contents of an audit objection, it was alleged that duty on Tools & Dies manufactured by the appellants and used captively in the manufacture of bicycles and parts thereof is leviable, because the bicycle and parts thereof are chargeable to nil rate of duty and the goods captively consumed are eligible to duty exemption (under Notification o. 67/95-CE) only when the finished goods are cleared on payment of duty which is not the case. The appellants paid the duty demanded but have contested the issue before the lower authorities without success.

3. It is clearly established that the "Tools & Dies", are covered in the category of "Capital goods" as mentioned in Notification No.67/95-CE dated 16.3.95. The

notification refers to capital goods covered by heading Nos. 82.02 to 82.11,. Obviously therefore being covered by Heading No. 82.07, "Tools & Dies" are capital goods, also for the purpose of Notification No. 67/95-CE. The appellants have correctly pleaded that the ineligibility to duty exemption on the grounds of use of captively manufactured goods in the manufacture of fully exempt final products, applies only to "inputs". Since the "Tools & Dies" are capital goods, no such disqualification is prescribed for "capital goods". In other words, despite the use of captively manufactured "Tools & Dies" for manufacture of fully exempt final products, the duty concession is available.

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