

Commissioner of Central Excise Vs. Santoshi Steels P. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-25-2003

Reported in : (2004)(92)ECC437

Judge : N T C.N.B., P Bajaj

Appellant : Commissioner of Central Excise

Respondent : Santoshi Steels P. Ltd.

Judgement :

1 This order will dispose of the above captioned appeals filed by the Revenue which have been directed against the common impugned order-in-appeal vide which the Commissioner (Appeals) has reversed the orders-in-original of the adjudicating authority. Since the facts and issues involved in all these appeals are common, they are being disposed of by this common order.

2. The facts are not much in dispute. The respondents are engaged in the manufacture of agricultural knives and soil levellers. They filed declaration under Rule 173B claiming exemption from payment of duty under Notification 64/86-C.E., dated 10-2-86 as amended by Notification 196/86, dated 14-3-86 by claiming the classification under Chapter Headings 84.33 and 84.32 as parts of the machines falling under these Headings. But the Department proposed classification of these goods under Chapter Heading 82 of the CETA. They were served with various show cause notices for the periods in dispute from July, 1996 to March, 2000. The adjudicating authority accepted the classification as proposed by the Department

and confirmed the differential duty demand as claimed in those show cause notices against the respondents. The Commissioner (Appeals) has reversed those orders-in-original of the adjudicating authority, through the impugned order by accepting the classification claimed by the respondents.

4. The learned JDR has contended that the agricultural knives and soil levellers manufactured by the respondents fall under Chapter Heading 8208.00 more appropriately and that the Commissioner (Appeals) has wrongly ordered the classification of the same under Chapter Headings 84.32 and 84.33 of the CETA. On the other hand, the learned Counsel has reiterated the correctness of the impugned order of the Commissioner (Appeals) and also produced the copy of the earlier order passed by the Commissioner (Appeals) regarding the classification of these very goods vide order dated 18-2-98 under these very chapter headings. We find from the record that the goods i.e. agricultural knives/soil levellers being manufactured by the respondents are in fact machines/ mechanical appliances meant for fitment in those machines and mechanical appliances used for agricultural purposes. These goods cannot be put to use for any other purpose. The dispute regarding the classification of these very goods earlier arose between the Department and the respondents as the Department insisted on the classification of these goods under Chapter sub-heading 8208.00 of the CETA, while the respondents wanted the classification under sub-heading 84.33 in order to claim the benefit of the exemption Notification No. 56/95, dated 16-3-95. The adjudicating authority at that time also accepted the classification proposed by the Department through Order-in-Original Nos. 43-44/97. But the same was set aside by the Commissioner (Appeals) vide order dated 18-2-98 by holding the classification under sub-heading 84.33 as parts of machines/machinery of the said sub-heading. This order has attained finality as the same had not been challenged before the Tribunal by the Department and as such is binding on the Department.

5. We also find that in the above said order, the Commissioner (Appeals) has observed that the goods in question viz. agricultural knives and soil levellers were used for cutting fodder and levelling the fields and that the Department even admitted this position, at the time of passing of that order by the Commissioner (Appeals) dated 18-2-98. There is nothing on the record to suggest if the

Department ever made any attempt to seek change in the classification by issuing show cause notices to the respondents. There is also no evidence to suggest if there had been any change in the use of the goods in question. Even in the present show cause notices which were issued by the Superintendent, no change in the classification of the goods in question had been proposed. The Superintendent only through the show cause notices called upon the respondents to pay the differential duty as their products were classifiable under sub-heading 8208.00. But in our view, he could not by-pass or ignore the order of the Commissioner (Appeals) dated 18-2-98 referred above, where the classification of these goods were ordered under sub-heading 84.33 as parts of machines/machinery. That order, as observed above, is binding on the Department having attained finality. No duty demand could be raised by the Superintendent of the Department by ignoring the said order on the matter of classification of the goods in question. Therefore, the Commissioner (Appeals) has rightly reversed the order of the adjudicating authority and maintained the classification of the goods in question under Chapter Headings 84.32 and 84.33 of the CETA as parts of machines falling under these Headings. Similar view has been taken by the Tribunal in CCE, Ludhiana v. Nalanda Spinners and Ors. - 2003 (57) RLT 909 wherein the order of the Commissioner (Appeals) on the classification of the yarn manufactured by the respondents therein was not challenged by the Department and it was observed that the said order could not be ignored and different classification could not be claimed by the Department for the subsequent periods.

6. In view of the discussion made above, we do not find any illegality in the impugned order passed by the Commissioner (Appeals) and the same is upheld in all the appeals. The appeals of the Revenue are dismissed.

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