

Pankaj Dial Industries Vs. Collector of Customs and Central

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-17-1983

Reported in : (1983)LC814DTri(Delhi)

Appellant : Pankaj Dial Industries

Respondent : Collector of Customs and Central

Judgement :

1. These five appeals arising out of a common Order-in-Appeal passed by the Appellate Collector and relating to the same appellants involve a common issue and they were, therefore, heard together on 17-5-1983.

2. The dispute relates to classification of watch dial feet imported by the appellants. The Department assessed them to customs duty under Heading 91.01/11 of the Customs Tariff Act, 1975 as parts of watches.

The appellants; claim their re-assessment at a lower rate of duty under Heading 74.09/19 CTA on the ground that the goods are not parts of watches but only raw material made of copper and its alloys. During the hearing, they showed us a sample of watch dial feet soldered to a round metallic disc. They stated that watch dial feet were at best a part of the dial and not of the watch and it was only the dial which was a watch part. They stated further that watch dial feet were used not only in watches, but also in gauges which contain a dial. They contended that watch dial feet could not be regarded as component parts for the further reason that if some defect occurred in them, they could not be repaired or replaced and it has to

be scrapped. Finally, they stated that in the form imported watch dial feet were just bits of wire which had to undergo further processing at the hand of the dial maker.

3. The Department's representative invited our attention to the description of the goods in the import invoice and stated that watch dial feet had been imported in three pre-determined cut sizes to suit the need for different types of watches and they were ready for fitment. Predominant use of the goods was for watch dials. Even if the goods required some further processing in the course of assembly of watch dial, in the form imported the goods had acquired the essential character of a watch component and, therefore, according to Rule 2(a) of the Rules for the Interpretation of the Customs Tariff, the goods were classifiable as watch parts.

4. We have carefully considered the matter. We find from the relevant import invoice that the goods were described therein as under :- The above description does not show that the goods were just pieces of wire as the appellants would like us to believe. On the contrary, the goods are described in the invoice as watch dial feet. Further, the invoice says that they were soldered. The goods were also in three pre-determined sizes indicating their readiness for fitment to dial discs. It may be that dial feet are also used in gauges having dials.

But the subject goods do not appear to be for use in gauges as the foreign supplier has specifically described them as "watch dial feet".

If the goods were for multifarious use, they could have been described as just "dial feet". The appellants' argument that watch dial feet are parts of watch dials and not of watches has no substance because a part of the sub-assembly of an article is also part of that article. It is also not necessary that a component part must be capable of being repaired. There are numerous instances where a component, once it becomes defective, cannot be repaired. Since watch dial feet are soldered to the disc, it may be that in the event of watch dial feet becoming defective they cannot be replaced and the whole disc may have to be replaced. But this is because of the process of their fitment by soldering and not because watch dial feet are not parts. The description of the goods in the invoice shows that they have acquired the essential character of a watch part even though some cutting to size of the watch dial feet, after their soldering to the disc, might be required. Rule 2(a)

of the Rules of Interpretation for the Customs Tariff applies in such cases and the goods have, therefore, to be considered as parts. Lastly, the appellants sought to rely on Calcutta High Court judgment dated 10-8-1978 in matter No. 948 of 1977 relating to M/s. Bengal Electric Lamps Works Ltd. v. The Collector of Customs and Ors. and produced a photostat copy of this judgment. We have gone through this judgment. The sole question for determination in that case was whether Tungsten Filaments imported by the petitioners in that case for manufacture of electric lamps were assessable to import duty under Heading 81.01/04(1) or Heading 85.18/27(4) CTA. The material portions of these headings read as under :- "81.01/04(1) Tungsten, molybdenum, tantalum and other base metals wrought or unwrought and articles thereof : "85.18/27(4) Electric filament lamps and electric discharge lamps (excluding infrared and ultra-violet lamps); arc lamps; electrically ignited photographic flash bulbs 100%" The Hon. High Court found that Tungsten Filaments, after their importation, had to be coated and sprayed with a material known as Getter and thereafter had to undergo certain soldering process in order to become a component of an electric lamp in the sense that it could emit or generate electrical energy; in other words, the imported goods by themselves and without aid of other chemical and allied processes were totally incompetent of producing or generating any electrical energy. For this reason, the High Court held that Tungsten Filaments were not an identifiable part or component of electric filament lamps and were correctly assessable under Heading 81,01/04(1). The case before us is distinguishable on facts. In this case, the invoice states clearly that the goods are soldered watch dial feet, tombac with one pivot and they are further cut to pre-determined sizes and diameters.

The description leaves no room for doubt that the goods are ready for fitment without any further processing. Secondly, Heading No. 91.01/11 CTA, which has been applied by the Department, is specific, inter alia, for parts of watches. The function of the subject watch dial feet is a physical one to stand like two little pillars in the watch to create some distance between the watch movement and the dial so that the dial does not obstruct the working of the watch movement. The invoice shows that the foreign manufacturer had already rendered the subject watch dial feet complete and ready for fitment to perform this physical function. Since the subject goods are identifiable parts of watches specifically covered by Heading

91.01/11, the generic Heading 74.09/19 relating to "other articles of copper including nails, tacks, staples, hook-nails, spiked, cramps, studs, spiked and drawing pins of iron or steel with heads of copper" would clearly be inappropriate for the subject goods.

5. Accordingly, we hold the assessment of watch dial feet under Heading 91.01/11 CTA as correct and reject all the five appeals.

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