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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Feb-20-2004

Reported in : (2004)(167)ELT287Tri(Mum.)bai

Judge : J Balasundaram, A M Moheb

Appellant : Mather and Platt (i) Lt.

Respondent : Commissioner of Central Excise

Judgement :

1. The question of classification of parts of machinery/equipment falling under chapter heading 84 and 85 the Central Excise Tariff Act has been a subject matter of considerable debate and may judicial pronouncements. Basic principles of classification enunciated in section note 2 of Section XVI of CETA should alone be the criteria for determining the classification of such goods.

"2. Subject to Note 1 to this Section, Note 1 to Chapter 84 and to Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading No. 84.84, 85.44, 85.45, 85.46 or 85.47) are to be classified according to the following rules (a) parts which are goods included in any of the headings of chapter 84 or chapter 85 (other than heading Nos. 84.09, 84.31, 84.48, 84.66, 84.73, 84.85, 85.03, 85.22, 85.29, 85.38 and 85.48) are in all cases to be classified in their respective heading.

(b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading No. 84.79 or heading No. 85.43) are to be classified with the machines of that kind or in heading No. 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate. However, parts which are equally suitable for use principally with the goods of heading Nos. 85.17 and 85.25 to 85.28 are to be classified in heading No. 85.17.

2. The appellants are manufacturers of P.D. pumps primarily designed for handling water. They procure duty paid ball/roller bearings, assemble them into bearing assemblies and use them in the assembly of P.D. pumps. These bearing assemblies perform a vital function in the working of such pumps. In the appellants' factory they are fitted between the bearing housing and the shaft to resist thrust. They are called thrust bearing assemblies.

3. The Commissioner decided that such thrust bearing assemblies fall under chapter heading 84.82 which is meant for ball or roller bearings.

In paragraph 36 of his order he observes thus: "As per HSN as applicable to CMS 84.81 (actually it is 84.82) thrust bearings are placed in between the shaft and housing to give radial support or to resist axial thrust. This is exactly the position in the present case and having thrust bearing fitted to the bearing housing for placement on the shaft the housing, also becomes part of such assembly." He goes on (paragraph 38): "An integral combination of housing, thrust block and bearing which represent thrust bearing assembly, since itself happens to be goods the same is classifiable under heading 84.82." The confusion springs from his attempt to equate a bearing per se with a bearing assembly after having admitted that he is concerned with a bearing assembly assembled by the appellants.

4. But if only the Commissioner read through the chapter notes under chapter heading 84.82 of HSN on which he relied so heavily he would have found this rather uncomfortable notes. We quote: "The heading (84.82) does not cover machinery parts incorporating ball, roller or needle roller bearings; these are classified in their own appropriate headings, e.g. (a) Bearing housings and bearing brackets 84.83." So a bearing housing can't be classified under 84.82. And we are

concerned with bearing assembly only. The Commissioner's finding that bearing assemblies, which are machinery parts are classifiable under chapter heading 84.82, has to be therefore rejected. They are appropriately classifiable under chapter heading 84.83.

5. The learned advocate tendered volumes of case law in support of his contention that the thrust bearing assembly is a part of P.D. pump and therefore should be classified under chapter heading 84.13 of CETA meant for P.D. pumps. He should have only looked at chapter note 2(a) to Section XVI. He bases his arguments on note 2(b) without crossing the hurdle of note 2(a) which says "parts which are goods included in any of the headings of chapter 84 or chapter 85 (other than heading Nos. 84.09, 84.31, 84.48, 84.66, 84.73, 84.85, 85.03, 85.22, 85.29, 85.38 and 85.48) are in all cases to be classified in their respective heading." We notice that 2(b) stalls with the words "other parts" which means other than those mentioned in 2(a). We have discussed above that bearing assembly is separately classifiable under chapter heading 84.83. It therefore cannot go under 84.13 much as one desires. We reject the contention of the advocate that the thrust bearing assemblies meant for P.D. pumps are classifiable under 84.13. Chapter heading 84.83 is the only appropriate heading for bearing assemblies.

6. But then, nothing is lost insofar as the appellants are concerned.

The benefit of notification 6/2000 which is sought to be denied by the department, is still available to the appellants so long as the thrust bearing assemblies are not classified under 84.82 meant for ball/roller bearings.

7. The Commissioner's order classifying the thrust bearing assemblies under chapter heading 84.82 is set aside. With that, the demand confirmed and the penalty imposed also go.