Commissioner of Central Excise Vs. Escorts Piston Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-15-2004

Reported in : (2004)(95)ECC647

Judge : K Usha, N T C.N.B.

Appellant : Commissioner of Central Excise

Respondent : Escorts Piston Ltd.

Judgement :

1. The respondent is a manufacturer of Piston & G. Pin. They purchased Circlips and Rings from the market and supplied them along with the Pistons and G. Pins manufactured by them, whenever the buyers wanted Circlips and rings to be supplied along with the Piston and G. Pin. The Circlips and Rings are required for installing Pistons in the engine.

The Jurisdictional Central Excise authority held that the value of Circlips and Rings should also form part of assessable value of Piston and G. Pin, despite the respondent's contention that the bought out items are only accessories and the price of bought out accessories is not to be included in the assessable value of manufactured goods.

2. When the matter went before the Commissioner (Appeals) he noted that this issue remains specifically covered by the decision of this Tribunal in the case of India Piston Ltd. He also noted that this view was in conformity with the decision of

the Apex Court in the case of Sri Ram Bearings Ltd. v. CCE [1997 (91) E.L.T. 255 (S.C.)] that cost of accessories is not includible in the assessable value of excisable goods. Accordingly, he allowed the appeal of the respondent.

3. Now Revenue is in appeal contesting that decision. The submission is that, under Rule 2(a) of the Rules for Interpretation of the Schedule, goods referred to under a heading of the schedule include those goods "removed in unassembled or disassembled condition". The contention is that Circlips and rings along with the manufactured items constitute Piston assembly falling under subheading 8409 of the schedule to Central Excise Tariff. Reliance is also placed on the decision of the Tribunal in the case of Nichrome Metal Works v. CCE, Pune -1996 (88) E.L.T. 448. It is being pointed out that the Tribunal has held that if bought out items are supplied along with the machines as its part, then the value of bought out items are also to be included in the assessable value.

4. We have perused the records and have considered the submissions made by both sides. We find no merit in the present appeal. Heading 8409 covers "Parts suitable for use solely or principally with the engines of Heading No. 8807 or Heading No. 8408". Thus, the heading covers "parts" only and not assembly. The Tribunal's decision in the case of Nichrome Metal Works has no application to the facts of the present case inasmuch as that order was passed on a finding as follow :- "As regards the cost of bought-out items there is no evidence placed on record to show that it was only of a trading activity as urged by the party. On the other hand, the Collector (Appeals) has observed that these bought-out items are not only the essential parts of the excisable goods but were also supplied along with the excisable goods. This factual position was not rebutted by the appellants either in the Memorandum of Appeals or in the written submissions lyaint stating that it was only a trade activity. It is true that they are not manufacturing these bought-out items but if they were supplied along with the excisable goods the Tribunal has been taking the view that cost of such bought out items enriches the value of the excisable goods and accordingly, the cost of such bought out items are to be included in the assessable value. Accordingly, we hold that in the instant case the cost of bought out items is included in the assessable value." 5. In the instant case, there is no ground that the Circlips and Rings were parts of Piston and G.

Pin manufactured by the appellant. They were admittedly separate items and needed only for assembling the piston in the engine. The impugned order has also noted that the issue is specifically covered by the order of the Tribunal.

6. In view of what is stated above, there is no merit in the appeal. It is rejected.