Goetze (India) Ltd. Vs. C.C.E.

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SooperKanoon Citation : sooperkanoon.com/34953

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-16-2004

Reported in : (2004)(94)ECC338

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

Appellant : Goetze (India) Ltd.

Respondent : C.C.E.

Judgement :

1. The appellants are manufacturers of I.C. Engine parts like piston and gudgeon pins. The appellants also procure and supply piston rings and circlips. These bought out items are at times supplied along with manufactured items, and at other times, separately. Under the order impugned herein it has been held that the bought out piston rings and circlips are parts of piston assembly and therefore, their value should also form part of the assessable value of the piston assemblies cleared by the appellants. A duty demand of over Rs. 1.7 crores and an equal of penalty have been made on the appellants.

2. The contention of the appellant is that the pistons and gudgeon pins and piston rings and circlips are all different parts of I.C. engine but none of these items is to be treated as part of another item. That is to say, piston rings and circlips cannot be treated as parts of pistons and subjected to valuation of duty on that basis. The appellant have submitted that the very fact of separate billing and separate sale of the items would show that the piston rings and circlips are not parts of pistons.

They also pointed out that during the relevant period, about 44% of pistons were cleared without circlips and 88% pistons were cleared without piston rings. The appellant have also pointed out that there is no classification in excise as piston assembly inasmuch as, Tariff Item 84.09 deals with "parts suitable for use solely or principally with the engines of heading No. 8407 or 8408". during the hearing of the case, learned Counsel for the appellants pointed out that this issue is no more in doubt inasmuch as the Tribunal has held in favour of the assessee in the case of C.C.E., Chennai vs. India Piston Ltd. - 1998 (104) ELT 494.

3. As against the above contentions raised on behalf of the appellants, learned SDR has pointed out that an expert opinion relied on in the present adjudication order has clearly stated that "rings and circlips are essential parts of piston assembly." Learned SDR therefore, has contended that based on available facts, the present case is to be decided in favour of the Revenue.

4. We are not able to find merit in the contention raised by the Revenue. The expert opinion relied on by the Revenue is that of Processor. Dr. Arun K. Lall, Head of Mechanical Engg. Deptt. Punjab Engineering College, Chandigarh. We may read his opinion: "This has reference to your office letter No. V(48) 15/128/CE/AA&R/95 Dated : 31.11.2001 regarding above mentioned subject. Rings and Circlips are essential part of the Piston assembly. However, for each assembly, fixed member of rings and circlips are required. For details one just have to see the part list in the assembly drawing which will show part number and quantity of each items i.e. piston ring and circlips for that particular assembly.

It may be noted that essential part are only in reference to a particular piston assembly, otherwise the same can be used as spares too.

From the above opinion, it is clear that piston assembly is being treated as one item. However, this is not the scheme of classification under the Central Excise Tariff. Tariff goes by parts of engines and each part of a piston assembly is a part of engine. From the trading practice also, it is clear that each of the items is bought and sold separately and not as parts of one item. That they are assembled together in a I.C. engine or that each part has an integral function in an assembly is no ground for holding that one item forms part of another item. Since excise duty is on manufacture, a manufacturer would be liable to pay duty only on the goods manufactured by it and not on all the goods supplied by it. For the sake of convenience, a buyer may request a manufacturer of one item (and that manufacturer may agree also) to procure other items and supply them along with the manufactured goods. Such ordering together or combined supply is no reason to include the value of bought out items in the assessable value of manufactured goods.

5. In view of what has been stated above, the impugned order is set aside and the appeal is allowed.