

Webel Toolsind Ltd. Vs. Collector of C. Ex.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-15-1987

Reported in : (1989)(41)ELT567TriDel

Appellant : Webel Toolsind Ltd.

Respondent : Collector of C. Ex.

Judgement :

1. The following items are the products involved in this case :-
_____SI
Model No. Nomenclature3. HDM120 Bench Drilling Machine (Combination of SI.
No. 1 & 7).4. HDM 160 " " " Bench Drilling Machine (Combination of SI.
No. 2&7).7. Tbst150 Bench Drill Stand for HB 1280/1650.8; TR 65 " " " for Grinder
Model HSW 596.

2. The appellants filed a classification list claiming the assessment under Tariff Item 68. The Assistant Collector in his order dated 29-9-1981 stated that the goods declared under SI. Nos. 1, 2 & 5 are self contained electric motor capable of and primarily designed for working in the hand and conform to the Tariff description of Tariff Item 51A(ii). In regard to Items at SI. Nos. 3, 4 & 6, he held that they are built in self-contained electric motors which are portable and could be fitted and removed by hand and they were designed to be controlled and directed by the hand during operation fitting classification under Tariff Item 51 A(ii). Items 7

& 8 were not held to be dutiable. The appellants preferred an appeal to the Appellate Collector, Calcutta. The Appellate Collector in his order passed after perusing the literature of the appellants, has stated, that very fact they had declared that the HB series of drills were heavy duty industrial power tools signified that these machines are "power tools" and not "hand tools". In the grounds of appeal, the appellants urged that the nature and salient features of the products have not been covered by any of the sub-classification of Item 51A or any other item of C.E.T. The products are not loose tools which have been classified and clubbed under the four sub-items of 51 A. Products are metal working machines like "drilling" and "grinding machines" and not "tools". The appellants did not appear on the date of the hearing and we have heard Shri J.N. Nigam, SDR. He cited the rulings of the Tribunal in Order No. 307/87-B1, dated 7-5-1987. (CCE, Calcutta v.B.S.Machine Tools Corpn., Calcutta). In that decision the question arose about the classification of electrically driven machines. The Tribunal after referring to Heading 84.49 of CCCN held that the portable drilling machines were hand tools assessable under Tariff Item 51A(ii).

3. The appellants herein have filed the literature of their products.

From the perusal of the literature, it is noticed that these are heavy duty shock proof variable speed compact electric drill fitting in the palm of the hand. The main contention of the appellants is that nowhere in the catalogue was it mentioned that the products were hand tools. We find from the literature that the electronic HB 1280 has "piston grip".

Electronic HB 1650 has "spade grip". These drills fit in the palm of the hand and the photograph in the pamphlet show that a person can operate with these drills with his hands. The appellants have mainly urged that in the appeal, the items do not include capital items like machine tools or other industrial machines and are absolutely consumable tools and loose tools, like chasers, spanners shear blades etc. But the appellants have ignored that the classification has to be determined with reference to the wording of the Tariff Item. The Tribunal has considered the heading tools for working in the hand pneumatic or with self-contained non-electric motor. This heading in the CCCN covered such tools only for working in the hand.

The expression tools for working in the hand" means tools designed to be held in the hand during use and also heavier tools which are portable i.e. which can be lifted and moved by hand by the user in particular while work is in progress. To obviate fatigue of taking their full weight during operation auxiliary supporting devices like Tripods, Jacklegs etc., are provided. Hence it is not correct to say that these are only mini-machine tools which are so small that can be taken to the job which may be too heavy to be moved easily or which could be fastened to a fixture and used as a stationary machine on a working bench to use tools such as twist drills, rammers, taps etc. We are of the view that in view of the earlier decision, and in the light of the pamphlet filed by the appellants, the products are assessable under Tariff Item 51A(ii). The appeal is, therefore, dismissed.

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