

Vulcan Level Ltd. Vs. Collector of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-18-1987

Reported in : (1989)(42)ELT435TriDel

Appellant : Vulcan Level Ltd.

Respondent : Collector of Customs

Judgement :

1. The Appellants imported, under the Bill of Entry No. 618/163, dated 29.6.81, goods described as "machine knives-semi-finished cold rolled, cold drawn carbon steel strip in carburised form having width 35 mm and thickness 2.5 mm in spiral coil form of varying dia and length for the manufacture of blades/knives for leather machinery". The Appellants sought classification of the goods under Heading 82.06 CTA but the goods were assessed to customs duty under Heading 7333/40 CTA. Aggrieved appellants filed an appeal before the Appellate Collector who rejected the claim for assessment of the goods under Heading 73.15(1) CTA and confirmed assessment made by the Asstt. Collector. Hence the present appeal.

2. Sh. S. Ganesh, the Ld. Counsel for the Appellants submitted that it is not correct to say that the Appellants desired assessment under Heading 73.15(1) though this assessment would give them partial relief.

He submitted that the Appellants throughout asked for clarification of the goods under Heading 82.06 CTA as knives and cutting blades for machines. Shri Ganesh argued that the imported goods acquired the essential characteristics of the

product namely - knives and blades - and were to be used in leather machinery. In this connection the Ld.

Counsel referred to a letter dated 17.12.81 written by the Appellants to the Appellate Collector wherein the detailed operations carried out by the supplier on the imported goods were listed. Referring to the invoice and bill of entry Shri Ganesh argued that the description given therein clearly indicated the nature of the goods and argued that interpretative Rule 2(a) should be applied to the imported goods as a result of which they would be classified goods under Heading 82.06.

According to him a letter dated 19th Sept., 1980 from DGTD to the Joint CCIE and the description in the import licence supported his arguments.

Claiming that the edges of the knives were ground and that the shape of the imported goods was perfectly in consonance with the finished product, the Ld. Counsel argued that the edge and the taper given to the imported knives made them capable of use only as industrial knives.

Therefore, they acquired all the essential characteristics of industrial knives. Sh. Ganesh referred to a judgment of the Tribunal (Larger Bench) in BHEL v. Collector of Customs reported in 1987 (28) E.L.T. 545 and submitted that according to the principles laid down in this judgment the imported goods must get the benefit of interpretative Rule 2(a) and be classified under Heading 82.06.

3. Sh. Ganesh on behalf of the Appellants referred to a letter dated 43.82 from the Appellants to the Appellate Collector of Customs. In this letter the Appellants listed 11 operations which they would conduct on the imported goods. Shri Ganesh submitted that in fact all these operations cannot be said as manufacturing operations and only operations Nos. 5,6 & 7 listed in the letter could be considered as finished operations. In the appeal dated 17.12.81 filed before the Collector (Appeals), the Appellants gave, as mentioned by Sh. Ganesh, the details of operations carried out on the imported goods by the supplier. These operations are as follows: (a) The special alloy strip is cold drawn to get varying thickness across the width, as to achieve the bottom thickness as shown in our drawing.

This thickness is closely controlled to achieve high tolerance zone- which is required for fitting and caulking the locking material into the groove of the knife cylinder. The taper on the width of the strip gives a wedding effect to the blade and thus allows it to be well ground on the blade roller. This is a very important characteristic of the end product and the taper once formed on the steel strip cannot be reversed.

(b) Strips of special steel were imported in coil forms by us. They were cut to a specific length and rolled to circle/coils to a particular inner and outer diameter parameters. This process cannot be reversed as the steel strip was formed into a permanent shape that is required to achieve the characteristic of the end product.

(c) The circles that were formed to the specific inner and outer diameters were carburised to achieve carbon penetration on the surfaces, keeping the inner core free of carbon. This operation was done to achieve characteristics of the end product and this operation cannot be reversed back to get back the original raw material which was manufactured from steel strip. From the attached Drawing No. GEN-143 of the END PRODUCT, it can be seen that the carburisation was done on the surface to a depth of 0.15 to 0.20 mm and the core is kept soft. This is the vital characteristic of the end product.

4. Sh. D.K. Saha, Ld. JDR opposing the arguments submitted that there is no question at all of applying interpretative Rule 2(a). He pointed out that according to the invoice and the bill of entry, the imported goods were "semi-finished cold steel strip in carburised form". The fact that these goods were described as being intended for the manufacture of blades/knives did not mean that the imported goods were anything other than raw materials. Shri Saha submitted that there was nothing in the records to justify the claim of the Appellants that the imported goods acquired the essential characteristics of knives/blades.

According to him, the description in the invoice and the bill of entry prove to the contrary, the imported goods were only steel strip and nothing more. The number of manufacturing operations carried out after importation proved this, according to the Ld. J.D.R.5. Shri Ganesh in reply wanted time to produce a certificate from the supplier to show that the imported goods were given the shape and other

characteristics of the finished goods. The Bench, however, did not grant the time as the goods were cleared but of customs charge long ago and as no such documents were filed before the authorities. It was felt that it would not be fair to the Deptt to allow new evidence to be brought in at this stage.

6. We have considered the arguments of both sides and perused the documents placed before us. We have examined the claims of Shri Ganesh regarding the characteristics of the imported goods, regarding shapes taper and edges. These were contentions made by the Appellants before the Appellate Collector. The real character and other details of the imported goods can be judged only from the description of the goods given in the invoice and the bill of entry. Both these documents describe the imported goods as follows :- Semi finished cold rolled, cold drawn, carbon steel strip in carburised form having width 35 mm and thickness 2.5 mm in spiral coil form of varying dia and length for the manufacture of blades/knives for leather machinery.

This description clearly shows, as submitted by the Ld. J.D.R. that the imported goods were in the form of strip and had varying width. The Appellants' letter dated 43.82 shows that 11 more manufacturing steps had to be gone through to convert the imported goods into knives. As submitted by Sh. Ganesh all the 11 steps may not be considered as manufacturing steps, especially these relating to checking. All the same, these steps considered together with the description given in the invoice and bill of entry lead us to the conclusion that the imported goods were far far away from the stage of knives and blades for industrial goods. We cannot accept as evidence the contentions made by the Appellants before the Collector (Appeals) as evidence that the imported goods acquired the characteristics of the final product. That these contentions were not specifically rejected by the Collector (Appeals) does not help the case of the Appellants as the Collector (Appeals) rejected the appeal and it must be assumed that he did not accept the contentions of the Appellants.

7. The judgment of the Tri. in BHEL v. Collector of Customs Tuesday, December 20, 2005(Supra) does not, in these circumstances, help the Appellants. In view of our observations above, the principles laid down therein cannot be held to be

applicable in this case. Consequently there is no question of applying interpretative Rule 2(a) for the purpose of classification of the goods in question. As a result, we dismiss this Appeal.

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