

Wartsila India Ltd. Vs. Cc

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-03-2005

Reported in : (2005)(190)ELT100Tri(Mum.)bai

Judge : A Wadhwa, S T C.

Appellant : Wartsila India Ltd.

Respondent : Cc

Judgement :

1. Heard both sides. The dispute relates to importability of the impugned second hand reconditioned Wartsila Vasa Basic Engine valued at Rs. 3.19 crores as capital goods. The adjudicating Commissioner has rejected the claim of the appellants for considering the impugned engine as capital goods on the ground that it is required for producing electricity and electricity cannot be considered as goods. His arguments are that the definition of "goods" under the Customs Act, 1962 does not cover and that "in common trade parlance no one will consider 'electricity' as goods".

2. We, however, find that the adjudicating Commissioner has overlooked the fact that electricity is covered under heading 27.16 of both the Customs and Central Excise Tariffs. Customs and Excise duties are levied respectively on goods traded internationally and domestically.

Inclusion of `electricity' in Customs and Excise tariffs clearly points to the fact that the same has been considered as `goods'.

3. We also note that the definition of `goods' under Section 2(22) of the Customs Act, 1962 is merely an inclusive definition. All goods included in the Customs tariff are to be considered as `goods' for customs purposes in addition to what are specifically enumerated in the said definition.

4. Since the impugned engine is undisputedly required for production of electricity which is clearly in the nature of goods, we are of the view that such engine qualifies for import as capital goods without a licence. Accordingly, we set aside the impugned order and allow the appeal with consequential benefit to the appellants.

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