

Collector of Central Excise Vs. Neolac Rubber Mfg. Co. P. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-19-1988

Reported in : (1988)(17)ECC145

Appellant : Collector of Central Excise

Respondent : Neolac Rubber Mfg. Co. P. Ltd.

Judgement :

1. The issue arising for determination in the present appeal is the classification of Radiator Hoses manufactured by the respondents. The Assistant Collector ordered classification of the goods under Item No.16A(3) of the First Schedule to the Central Excises and Salt Act, 1944 (the "GET" for short), rejecting the respondents' claim for classification of the goods under the residuary Item No. 68 CET as unspecified parts or accessories of motor vehicles. In appeal, this order was set aside by the Collector of Central Excise (Appeals) by his impugned order dated 2-11 -1983. This order has been challenged by the Collector of Central Excise, Calcutta, in the present appeal 2. The dispute relates to the entries in the CET after the amendment of Item No. 34A in 1979 by the Finance Act of 1979. Earlier, the entry covered parts and accessories, not elsewhere specified, of motor vehicles and tractors including trailers. With the changes in the 1979 budget, the entry became a specific one, its coverage being restricted to the goods specified therein. Radiator hoses were not in the list of specified goods.

4. The question, therefore, is whether radiator hoses are mere piping and tubing or are recognisable as parts of motor vehicles. A sample of the goods was shown to

us at the time of hearing. The hose is bent into the configuration required for it being fitted to a motor vehicle and, but for the clamps which are required for fastening it to the motor vehicle, is an identifiable part of the motor vehicle. The contention of the appellant is that these are not radiator hose assemblies which alone would be identifiable as motor vehicle parts and, in this connection, the Collector's Trade Notice No. 199 is relied upon. This Trade Notice says that hose assembly, specially designed for use as hydraulic and air brake hoses for motor vehicles and also air brake assembly would be classifiable under Item No. 68, CET after 1 -3-1979 and under Item No. 34A prior to 1 -3-1979. What we have before us is evidently not an assembly but a piece of rubber hose fabricated to the contour and configuration required for being fitted to a motor vehicle as radiator hose. The trade notice is not directly relevant to the issue. The contention for the respondents, on the other hand, is that, unlike air brake hose assemblies, radiator hoses do not require end fittings. They only need to be clamped at the appropriate places and further the hoses are made to specifications of the motor vehicle manufacturers.

5. It is seen from the respondents' letter dated 21 -5-1982 to the Assistant Collector that the goods were being supplied inter alia to the vehicle factory, Jabalpur under CT2 certificates furnished by them.

They had also attached along with the letter, a communication from the Superintendent of Central Excise, attached to the vehicle factory, informing them that the radiator hoses fell under Item No. 68, CET.6. The question whether "push-pull switches, head-light switches and stop-light switches" are classifiable as "motor vehicle parts" or as "electric lighting fittings" under Item No. 61, CET ("Electric Lighting Fittings, namely, switches, plugs...") came up for consideration before the Bombay High Court in P.M.P. Auto Industries Ltd. v. Union of India and Ors. -1987 (31) E.L.T. 369. The Court took note of the evidence submitted by the petitioners to show that such switches were traded in by dealers in accessories and parts of motor vehicles and held that they were parts of motor vehicles and not electric lighting fittings and that, as non-specified motor vehicle parts, they fell under Item No. 68, CET.7. In Ideal Jawa (I) P. Ltd. v. Assistant Collector of Central Excise, Mysore and Ors. -1986 (24) E.L.T. 226, the goods were bolts and nuts,

manufactured to specific drawings, for use as parts of motor cycle. The Court held that even though the goods might be broadly classified as bolts and nuts in the generic sense in which they are referred to in Item No. 52, CET, they constituted component parts of motor cycles since they were special types of bolts and nuts specifically manufactured to specifications, and as per drawings, for assembly of motor cycles. They, therefore, formed integral parts of the machine with distinct and specific function in the operation of the motor vehicles of which they were component parts.

8. This decision was of course in the context of the unamended Item No.34A of the CET.9. The principle emerging from the aforesaid two decisions is that if a given article is identifiable as a component part of a motor vehicle, it should more appropriately be classified as a motor vehicle part rather than under the generic heading under which it might have otherwise been classified. Applying this principle to the present case, It may be seen that the goods before us are not mere lengths of pipes or tubes but hoses cut to the required length and fabricated, as noted earlier, to the contour and configuration required for being fitted to motor vehicles. The contention of the respondents has been right through that they were supplying these radiator hoses to different motor vehicle manufacturers as original equipment. This contention has not been disputed by the Department. In the circumstances, we are of the opinion that it is more appropriate to classify these radiator hoses as parts of motor vehicles rather than as mere "piping and tubing of unhardened vulcanised rubber". And, since radiator hoses have not been specified under Item No. 34A, CET, they would fall for classification under the residuary Item No. 68, CET.10. In the above view of the matter, we uphold the impugned order and dismiss the appeal.