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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-15-1983

Reported in : (1983)(14)ELT(2008)TriDel

Appellant : Emco Transformers

Respondent : Collector of Customs

Judgement :

1. The Revision Application dated 29-7-1978 against order-in-Appeal No.S/49-770/77 A dated 19-1-1978 passed by the Appellate Collector of Customs, Bombay has been transferred by the Government of India to the Tribunal for disposal in terms of Sec. 131B(2) of the Customs Act, 1962.

2. Four consignments of Transformer Bushings were imported under Bills of Entry Nos. 2538/100 dated 28-2-1977, 2668/30 & 32 dated 7-3-1977 and 2668/31 dated 7-3-1977 which were assessed to duty under Heading 85.18/27(1). A claim for assessment under Heading 85.01 (1) as components of Transformers of 400 volts or alternatively under heading 85.18/27 (1) (presumably (7)), as they are used on transformers which, in turn, are used for transmission of electricity both at the point of generation and point of use and are thus integral parts of transmission system, was rejected by the Asst. Collector of Customs, on the ground that insulators are specifically mentioned under heading 85.18/27 and the question of classifying the bushing (which is an insulator), does not arise. The choice is between sub-heading (1) and sub-heading (7) of the main heading 85.18/27. The latter is restricted to insulator which are used in transmission systems and the bushings are meant for

the transformer which is an independent equipment, hence sub-item (1) would be appropriate. The Appellate Collector held that the electrical bushing in question cannot be used on transmission lines which require a different type of insulator. These insulators are also not component parts of transformers as they are not part and parcel of the transformer but are used by being mounted on the transformer. They are basically insulators for high voltage circuit breakers and can find used both for transmission as also for receiving and distribution of current. They are correctly assessable to duty as part of high voltage circuit breakers under item 85.18/27(1). He, therefore, rejected the appeal.

3. The appellants now state that they are manufacturers of electric transformers and had imported these consignments of transformer bushings for use as component parts of their 66KV and above transformers. The bushings were assessed under heading 85.18/27 (1) and also to c.v.d. under item 23B(4). They have claimed assessment under heading 85.01 as component parts of electric transformers whose rated in-put voltage is over 400 volts or in the alternative No. 85.18/27(7) as insulators designed for use in an electric transmission of 400 volts and above. The Appellate Collector failed to appreciate that these transformer bushings of 145 KV are basically component parts of transformers of 66 KV above and are definitely not insulators for high voltage circuit breakers. This is supported by the fact that they are catalogued by the manufacturers as transformer bushings. They are known as such in the trade also. The various Electricity Boards insist that transformers will be supplied with bushings as terminal arrangements.

Even high voltage transformers supplied by foreign manufacturers are equipped with transformer bushings and a photograph of one such transformer, imported by them, from the same supplier of the bushings in Sweden, is enclosed. The ISS 2026 also clearly specified transformer bushings for transformers and stipulates the standards for such bushing. Appendix 44 to the ITC. Policy Vol. I 77-78 permits "Bushings above 66 KV" as components of power transformers. The construction and design of the bushings, as may be seen from the catalogue, not only indicate that it is meant for mounting on the transformer as its component and is not a part of a circuit breaker is misunderstood by the Appellate Collector but also shows that it is an article which, if produced in India, would not attract excise

duty under item 23B but under item 68 of the Tariff. Levy of c.v.d. as chinaware or porcelainware all sorts, is therefore, not fair and reasonable. They would, therefore, claim that the c.v.d. on the transformer bushings is also refundable.

4. Shri Jamadar reiterated these arguments. He explained the function of the transformers being manufactured which was to step up current generated at 50 KV to 132 KV for transmission and to step it down to 6.5 KV for distribution. The bushing acts as a terminal for entry and exit of the current, as evident from the literature. He disagreed with the Appellate Order that these bushings are part of high voltage circuit breakers. He claimed that these are bushings which give insulation in two directions and not insulators which give insulation only in a single direction. They are parts of the transformer which have no other use, Shri Jamadar wanted assessment either as parts of electrical transformer under 85.01 (1) or as insulators designed for use in electrical transmission system under 85.18/27 (7). Shri Sunder Rajan, on the other hand, drew the Tribunal's attention to note 2 to Section XVI of the Tariff. According to this, parts of machines should fall outside Heading 85.18/27, if they are to be classified under any other heading of this Chapter. Since DTN 85.25 covers insulators of any material, Heading 85.01 is ruled out. As regards heading 85.18/27 (7) it covers "Insulators designed for use in an electrical transmission system of 400 volts or above". Only distribution transformers are covered by this sub-item and not power transformers. The bushings are insulators falling within main heading 85.18/27 and not being elsewhere specified clearly fall within sub-item (1). Shri Jamadar then raised the question of assessment of the articles as porcelainware under GET item 23B 15% ad valorem instead of Item 68. The Departmental Representative conceded that complete insulators were not assessable as porcelainware under item 33B but came under item 68 according to Tariff Item Advice No. 29/77 dated 2-8-1977.

5. After careful consideration, the Tribunal agrees with the Deptt.

that the Transformer Bushing in question is correctly classifiable as insulator under heading 85.18/27(1) and the impugned order is upheld to this extent. As regards the additional duty of customs neither of the two orders in question mentions any claim in this regard, but the Departmental Representative has not raised any

objection in this regard. Having regard to the fact that the dispute concerns the basic fact whether these bushings are insulators or not and the question of c.v.d. is incidental to this, as they contain porcelain, the Tribunal is of the view that it would be just and proper not to deny the benefit of assessment under item 68 GET, to the appellants. Their appeal to this extent only is allowed.

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