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Controller of Stores, Shipping Vs. Collr. of Cus.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-02-1990

Reported in : (1990)(49)ELT275TriDel

Appellant : Controller of Stores, Shipping

Respondent : Collr. of Cus.

Judgement :

1. The Controller of Stores, Shipping Cell, Southern Railway, Madras, had filed originally two appeals listed as C/Appeal No. 842/84-B2 and C/Appeal No. 64/85-B2, being aggrieved from the order-in-appeal No.C3/2034 & 2033/83 dated 31-3-1984 passed by the Collector of Customs (Appeals), Madras and Order-in-appeal No. C3/266/84, C3/289, 285 and 45/84 dated 31-8-1984/1-12-1984 passed by the Collector of Customs (Appeals), Madras. Thereafter, the appellants have filed 4 more Supplementary appeals and have also filed an application for condonation of delay. Shri T. Varadharajan, DCS, has appeared on behalf of the appellant. He has pleaded that the Collector (Appeals) in appeal No. C/842/84-B2 is against the Collector of Customs (Appeals), Madras order disposing of two appeals by a common order and now he has filed a supplementary appeal. Appeal No. C/64/85-B was filed against a common order disposing of four appeals passed by the Collector of Customs (Appeals), Madras. Shri Varadharajan stated that as soon as the appellants discovered that 4 more Supply. Appeals have to be filed, he filed the same and pleaded that the appellant was prevented by a sufficient cause in the late filing of the appeals and the delay may be condoned. Shri M.K. Sohal,

learned JDR who has appeared on behalf of the respondent does not oppose the prayer for condonation of delay.

After hearing both the sides, the delay in the filing of the supplementary appeals is condoned.

2. Shri T. Varadharajan on merits argued that in all the above captioned appeals the issue involved is a common one and the appellants manufacture insulators which are used to support at high voltage for electric traction system of the Railways. He has pleaded that the appellants' case is fully covered by an earlier order of the Tribunal in Appeal No. CD(SB)(T)/1187/82-B2, order No. 107V87-B2 dated 02-6-1987, in the case of M/s. Southern Railway v. Collector of Customs, Madras. Shri Varadharajan argued that originally the goods were assessed under Tariff heading 85.18/27(1) and the goods are now correctly classifiable under heading 85.18/27(7). He further argued that insulators imported by the appellants are used in the transmission and form part and parcel of 25 KV Solid Core Overhead Electrical Transmission System. There is no difference between transmission and distribution line. Between the point of generation and consumption there is only transmission system and this includes both transmission and distribution. Shri Varadharajan stated that the matter is covered by an earlier judgment of the Tribunal and as such the appeal may be allowed. Shri M.K. Sohal, learned JDR who has appeared on behalf of the respondent relies on Order-in-appeal and Order-in-original. In view of the earlier judgment of the Tribunal he leaves it to the Bench.

3. We have heard both the sides and have gone through the facts and circumstances of the case. We have also gone through the earlier order of the Tribunal No. 1071/87-B2 dated 2-6-1987 printed in 1989 (41) ELT 463 in Appeal No. CD(SB)/T. No. 1187/82-B2 in the case of M/s. Southern Railways. The facts are not disputed. The appellants' imported insulators which are used in the overhead transmission lines. Para No.5 from the said judgment is reproduced below :- "We have considered the facts of the matter and submissions made by both sides. It has been explained by the appellants with the help of a photograph that imported insulators are used in overhead transmission line. We adhere to

earlier view of the Tribunal that no distinction need be made between the transmission line and distribution line. We feel that the submissions made by Shri Chandrasekhar that between the point of generation and consumption there is only transmission system and this includes both transmission and distribution, is acceptable. In this view we hold that the imported goods are insulators designed for use in electrical transmission system which is admittedly of above 400 Volts. We allow the appeal and order consequential relief." In view of the earlier decision of the Tribunal we set aside the impugned orders and hold that the imported goods are insulators designed for use to support electric traction overhead line wires transmitting power at high voltage for electric traction system, which was admittedly of 400 Volts. In the result the above captioned 6 appeals are allowed. Revenue authorities are directed to give consequential effect to this order.P2

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