

**Collector of Customs Vs. Vora and Vora**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Sep-21-1990

**Reported in :** (1991)(31)ECC249

**Appellant :** Collector of Customs

**Respondent :** Vora and Vora

**Judgement :**

1. Collector of Customs, Bombay has filed the above captioned 14 appeals being aggrieved from a common order passed by the Collector of Customs (Appeals), Bombay. Briefly, the facts of the case are that M/s.

Vora and Vora, Bombay had imported water pump ball bearings and the revenue authorities had made the original assessment under Heading 84.62(2) of CTA 1975 and had ordered the levy of CV duty under Tariff Item 49 of the Central Excise Tariff.

2. The importer being not satisfied filed refund claims and claimed assessment under Heading 84.62(1) with CV duty under Tariff Item 68 of the Central Excise Tariff. Alternatively, the importer had claimed assessment as parts of water pump under Heading 84.10(3) and CV duty under Tariff Item 68. The Assistant Collector had observed that the goods imported were treated as water pump ball bearings. It was contended that it was not a bearing but it was a shaft with bearing and, therefore, it should be treated as a part of the pump or as a shaft. The Assistant Collector did not accept the contention of the appellant. He had observed that as

regards the measurement of the actual bore, bore of water pump bearings normally never exceeded 60 mm and they were very much below 60 mm and as such the question of actual measurement would not pose any difficulty to decide the classification between sub-items (1) and (2) of the Heading 84.62. He had held that water pump bearings were assessable under Heading 84.62(2) of CTA 1975 and CV duty was leviable under Tariff Item 49 of the Central Excise Tariff. He had rejected the claim of the importer.

3. Being dissatisfied from the order passed by the Assistant Collector, the importer preferred appeals before the Collector (Appeals).

Collector (Appeals) following the decision of the Tribunal vide Order No. B-239/83 dated 14th April, 1983, had ordered the assessment under Heading 84.62(1) of the CTA 1975 and had ordered levy of CV duty under Tariff Item 49 of the Central Excise Tariff.

4. Being not satisfied with the orders passed by the Collector of Customs (Appeals), the revenue has come in appeal before the Tribunal.

5. Shri M.K. Sohal, the learned JDR who has appeared on behalf of the revenue relied on the order-in-original and pleaded that the correct assessment for the levy of customs duty is under Heading 84.62(2) of the Customs Tariff Act, 1975. He has pleaded for the acceptance of the appeals.

6. Shri N.C. Sogani, the learned consultant who has appeared on behalf of the respondent, pleaded that the matter is clearly covered by an earlier decision of the Tribunal for the same product in the case of International Auto Suppliers, Delhi v. Collector of Customs, Bombay vide order No. B-239/83 dated 14th April, 1983 vide appeal No.763/80-B. Shri Sogani pleaded that in view of the earlier decision of the Tribunal, the appeals filed by the revenue may be dismissed.

7. Shri M.K. Sohal, the learned JDR in reply again relies on the order-in-original.

8. We have heard both the sides and have gone through the facts and circumstances of the case. It is not disputed that the imported product in the present matters is water pump bearing. Para Nos. 4 and 5 from the earlier

judgment of the Tribunal in the case of International Auto Suppliers, Delhi v. Collector of Customs, Bombay vide order No.B-239/83 dated 14th April, 1983 are reproduced below :- "4. We have carefully considered the matter, seen sample of the subject goods and gone through the catalogue. We hold that the goods have to be assessed to the customs duty in the form in which they are imported. Sub-heading (2) of Heading 84.62 requires that ball bearings to be classified under that sub-heading should fulfil the following two conditions :- 5. The subject spindle bearings or integral shaft bearings do not have a bore as they have an integral shaft fixed at the place where the bore should have been. When they do not have a bore, the question of their having a bore diameter does not arise. It is not permissible to ignore the actual condition of the goods imported and assess them on the basis of some deemed condition. As the subject goods do not fulfil the requirements of sub-heading (2), there is no scope to invoke the Interpretative Rule 3(c) and since by common agreement the goods are bearings, they fall squarely under sub-heading (1) of Heading 84.62. When an appropriate heading for themselves is available in the Tariff, the question of invoking the Interpretative Rule 4 to search for some other heading appropriate to the akin goods does not arise. We, therefore, hold that the subject spindle bearings were correctly classifiable under Heading 84.62(1)." We follow the earlier decision of the Tribunal and hold that spindle bearings or bearings with integral shaft are correctly classifiable under Heading 84.62(1) of the Customs Tariff Act, 1975. We do not find any merit in the appeals. The appeals are dismissed.

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