

**Commandant, Embarkation Vs. Collector of Customs**

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**SooperKanoon Citation :** [sooperkanoon.com/682](http://sooperkanoon.com/682)

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

**Decided On :** Nov-24-1983

**Reported in :** (1984)(16)ELT319TriDel

**Appellant :** Commandant, Embarkation

**Respondent :** Collector of Customs

**Judgement :**

1. The question for decision in this appeal originally filed as a Revision application to the Government of India, is the classification for the purpose of Customs of 'Honing fluid and Honing stone-whether they should be classified as the machines under heading No. 84.45/48 at the rate of 40% plus C.V.D. 8% or on merits as done by the lower authorities. The appellants by B.E. Cash No. GSI 3615 dated 28-9-1979 imported Delapena Honing Machine and accessories. These were classified under heading 84.45/48 at 40%+C.V.D. 8%. It appears that the accessories of the machine consisted of Honing stones and Honing fluid. The Customs authorities felt that these accessories would not be classifiable as machine. A notice to show cause, why less charge be not recovered from the appellants was issued. After following the usual procedure, the Assistant Collector of Customs passed order dated 8-7-1980 assessing the fluid and stones under heading 68.01/16(1) at 100%+20%+ 15 C.V.D. and confirmed the demand. The appellants then filed an appeal to the Appellate Collector of Customs, Bombay, who by his order dated 18-11-1980 upheld the order of the Assistant Collector of Customs on the ground that the invoice produced showed that the goods were

separately shown and valued therein. Hence the present appeal.

2. At this stage, the appellants have filed copies of relevant documents like the catalogue, purchase order and its amendment and quotation, letter of credit etc. At the hearing of the appeal, Wing Commr. (Retd.) K.C. Tandon, Advocate representing the appellants argued that the two items were suitable for use principally and exclusively with Honing machine and therefore, they should have been classified with the machine.

3. On behalf of the Department, Sh. V.M.K. Nair, S.D.R. controverting the arguments of Sh. Tandon relied on 'The Accessories (Condition) Rules, 1963' and argued that the appellants were not entitled to the classification claimed because stones and liquid were not to be compulsorily supplied along-with the machine and separate charge was made for such supply and price shown separately.

4. Though the Bill of Entry describes the goods in question as accessories, there can be no doubt that honing stone is a part of the honing machine. It was urged by Sh. Tandon that the honing stones cannot be used elsewhere. This was not disputed by the Department. In this view of the matter even though the stones might have been described as accessories we would hold that they are parts suitable for use solely or principally with the honing machine. For such a case Note 2(b) of Section XVI to Customs Tariff Act, 1975 would be attracted and Honing stones would have to be classified like the Honing machine which has been done under heading 84.45/48. We do not accept Sh. Nair's contention that the Stones are separate and therefore not part. Merely because stones are written separately would not mean that they are not part of the machine.

As to Honing liquid, we do not accept Sh. Tandon's argument that it is also part of honing machine. It is a lubricant like any other lubricant and can have alternative uses. The appellant's claim for classification for this item must fail.

5. As a result the appeal is partly allowed. Appellants claim for classification of Honing stone under heading 84.45/48 alongwith the Honing machine is accepted. As to Honing liquid it is rejected.