Omkar Engineering Works Vs. Superintendent of Central Excise

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Court : Gujarat

Decided On : Dec-03-1976

Reported in : 1992(37)ECC31

Judge : S. Obul Reddi, C.J. and; N.H. Bhatt, J.

Appeal No. : Special Civil Application No. 18 of 1975

Appellant : Omkar Engineering Works

Respondent : Superintendent of Central Excise

Advocate for Pet/Ap. : Mr. V.B. Patel

Judgement :

S. Obul Reddi, C.J.

1. The short question that arises in this Special Civil Application is whether the items listed, namely, tool-box, folding-pole, jack, angles supporter, chains, brake-pipe, pipe-stand, draw-bar and tomy are components of a trailer so as to make those items part and parcel of the trailer. The Central Excise Department treated the aforesaid items as integral parts of the trailer and took the value of those items also into account in levying the total amount of excise duty on the trailer on the ground that there was a short levy on account of those items not being taken into account while levying the excise duty. The Superintendent of Excise issued a show cause notice and, after obtaining the representations or the explanation of

the petitioner, held that these parts constitute components of the trailer and directed the petitioner to pay the short levy of duty amounting to Rs. 1742-52 ps. That order of the Superintendent of Excise was unsuccessfully carried in appeal to the Collector of Central Excise, Bombay. Thereafter the matter was carried to the Central Government and as the Central Government declined to interfere with the orders of the authorities below, the petitioner resorted to the jurisdiction of this Court under Article 226 of the Constitution.

2. Mr. V.B. Patel appearing for the petitioner contended that even without the items in question the trailer is complete and one can use the trailer without any of these items. In other words, it is his case that these items were accessories and not spare parts or components of the trailer and as such they are not excisable goods. It is specifically admitted by the respondents that without these items the trailer could be used and would be complete by itself. Some of the items in question could be got fixed by a purchaser either from the petitioner's Engineering Works or from any other Engineering Works which may not manufacture trailers. We cannot understand how a tool-box or a jack or angles-supporter or chains could be construed as forming integral part or components of a trailer. Tool-box is a separate box where tools are kept. Similarly, a jack is not fixed to a trailer and it is a portable item. Unless it is shown that the items in question are components or integral parts of a trailer and without them a trailer is not a complete manufactured item and cannot be used, it would be difficult to hold that these items which are only in the nature of accessories could be characterized as components or integral parts of a trailer. We are, therefore, unable to agree with the learned Counsel for the respondents that the items in question are excisable items.

3. We, therefore, set aside the impugned orders and allow the petition. Rule made absolute. No costs. The short-levy amount, if it had already been collected, shall be refunded to the petitioner.