Collector of Central Excise Vs. C.E.A.T. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-14-1994

Reported in : (1994)(74)ELT265TriDel

Appellant : Collector of Central Excise

Respondent : C.E.A.T. Ltd.

Judgement :

1. This is an appeal filed by the Revenue against the order of the Collector (Appeals), Pune dated 8-12-1993.

2. The Learned DR stated that the Respondents are the manufacturers of 'tyres for motor vehicles' and a question has arisen whether in respect of the tyres of the specification 6.70-15. they were entitled to the benefit of exemption under Notification No. 41/89-C.E., dated 1-3-1989 (as amended) under Serial No. 2(ii) of the table annexed thereof or under Serial No. 3B(i) thereof.

3. The distinction between the two entries is that the Serial No. 2 provides the effective rate of duty in respect of the tyres for Saloon cars of Rim sizes specified therein whereas the Serial No. 3 provides the effective rates in respect of tyres for motor vehicles other than the Serial Nos. 1 & 2 above to the specified sizes.

4. It was the department's contention that the Learned Collector has erred in granting the benefit under Serial No. 2(ii) because the specified rim sizes of the goods in question namely 6.70-15 is specifically mentioned under Serial No. 3B(i).

5. It was their contention that the tyres of this specifications are actually meant for light motor vehicles and not for Saloon Cars. This was evident from the I.T.T.A.C. Data Manual in which this specification is indicated under the heading tyres for light commercial vehicles.

6. It was also their submission that the certificates which had been filed by the respondents before the Learned Collector (Appeals) include one from Mahindra Nissan Allwyn Ltd. dated 7th January, 1991 and Anr.

from Eicher Motor Limited dated 7th January, 1991 are correct but applied only to the type of vehicles being manufactured and sold by those concerns. These certificates are, therefore, not sufficient to indicate that this types of specification is not meant for or cannot be used for other types of light motor vehicles or is meant for Saloon Cars.

7. The Learned Advocate appearing for the respondents stated that the respondents had filed a lot of material before the Collector (Appeals).

Apart from the certificates mentioned by the Learned DR they had filed a series of other documents listed by them in their Cross Objection.

8. These includes, inter alia, the relevant pages of I.T.T.A.C. Data Manual.

9. The Learned DR has drawn attention to only a particular page but the relevant technical details are mentioned at the various pages re-produced by them. These pages indicate the distinction between the tyres meant for passenger's cars and those meant for light commercial vehicles. The Data takes into account a number of criterion which the department appears to have missed or not noticed. Apart from the rim sizes the ply rating and other technical criterion are equally important because the tyres meant for passengers vehicles have to take into account the higher speed and light load whereas the tyres meant for commercial vehicles have to take care of heavy loads and other requirements. It was their submission that all these technical parameters have to be taken into account.

9.1 In fact, the same rim sizes can be found mentioned under the Saloon cars heading as well as the light commercial motor car heading but the distinction lies in the ply rating and other technical parameters.

10. This would be evident from the photo copies of these data extracted from the I.T.T.A.C. Data Manual and placed as Exhibit A and Exhibit B in their cross objection.

11. This is also supported by the affidavits of the technical experts one filed by the Technical Manager who mentions these details along with reasons for the same and summerises the salient features and distinguishing characteristics and as also the affidavit of their marketing manager and dealers.

12. While all these materials had been placed before the Collector (Appeals) the department had not filed any material to the contrary and that is why the ld. Collector (Appeals) has mentioned that while they had filed documents in support of their contention, the department has not substantiated its contention and set aside the Assistant Collector's order accordingly.

13. The learned DR stated that he would like to reiterate the department's view-point as arises in the appeal memo.

14. We have considered the above submissions. We observe that the Learned Advocate is correct in as much as for distinguishing the tyres meant for use in Saloon Cars and tyres normally meant for use in motor vehicles other than Saloon cars, we have to keep in view not merely the rim sizes but all the relevant technical parameters.

15. We notice that the Collector had rejected the department's viewpoint as unsubstantiated and we observe that the appellants (Department) has not produced any material in support of their contention even at this stage.

16. Whereas, the respondents have submitted the full particulars and shown the distinguishing features with reference to the relavent technical parameters on the basis of specifications indicated by an independent All India Organisation namely I.T.T.A.C. in its Data Manual as well.

17. In view of the above position, we dismiss the department's appeal as unsubstantiated.