Collr. of C. Ex. Vs. Lakshmi Automatic Loom Works Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-23-1994

Reported in : (1994)(74)ELT954TriDel

Appellant : Collr. of C. Ex.

Respondent : Lakshmi Automatic Loom Works Ltd.

Judgement :

1. Shri Somesh Arora, the learned JDR submits that the disputed items before the Tribunal as is apparent from grounds of appeal were transmission shafts, cranks, bearings, gears and gearing. The Tribunal in its order dated 18th February, 1994 has interpreted the scope of Tariff Heading 84.83 and other Tariff Headings in the light of Inter-pretative Rules for interpreting the Central Excise Tariff Act, 1985. It had come to the conclusion that Tariff Heading 84.83 will have precedence over Tariff Heading 84.48 in view of Interpretative Rule 3(c) of the Tariff. Thereafter, the Tribunal's order goes on to classify shafts and bushes, the two disputed items. The order, however, does not classify 'gears and gearing' which are also the subject-matter of dispute.

2. It has now been urged by the learned JDR, Shri Somesh Arora for applicant-Collector that gears and gearing are specifically mentioned in Tariff Heading 84.83. Therefore, in view of the finding of the Tribunal in the said order dated 18-2-1994, they should be classified under the said Tariff Heading 84.83.

3. The learned Advocate Shri V. Lakshmi Kumaran for the non-applicants (respondents in appeal) concedes the aforesaid position.

4. We agree with the learned JDR that there has been an omission in not classifying 'gears and gearing'. In view of the principles laid down in the Tribunal's order dated 18-2-1994 and the fact that these are specifically mentioned in Tariff Heading 84.83, gears and gearing are classifiable under Tariff Heading 84.83. We hold accordingly.

Accordingly, sub-para 3.6 shall be read after sub-para 3.5 in the Tribunal's order dated 18-2-1994 as follows :- "In view of the fact that gears and gearing are specifically mentioned in Tariff Heading 84.83, this is the more appropriate Heading than Tariff Heading 84.48. We hold accordingly".

"In view of the above discussion, we dispose of the appeals of the Revenue in the above terms".