

Collector of Central Excise Vs. Square Deal Industries

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-13-1995

Reported in : (1995)(80)ELT187TriDel

Appellant : Collector of Central Excise

Respondent : Square Deal Industries

Judgement :

1. M/s. Square Deal Industries manufactured bolts and nuts classifiable under Tariff Item 52 of the erstwhile Central Excise Tariff. They purchased nuts and washers, galvanised them and cleared the bolts on which the washers were fitted and the nuts screwed. The unit had paid duty on the bolts manufactured by it. The Department however, was of the view that for calculating the exemption limit under Notification No. 71/78, the value of the bolts, nuts and washers in the form in which they were cleared should be taken into account. The Assistant Collector of Central Excise came to this conclusion and confirmed the consequent demand of duty. In appeal the Collector of Central Excise (Appeals), Bombay held that, since galvanising was not a process of manufacture, the unit was not required to pay duty, and set aside the Assistant Collector's order. The Department has now come up in appeal before us.

2. We have heard Shri M.K. Jain, SDR for the Collector. He points out that the unit cleared bolts, nuts and washers as an integral item.

Therefore, the value of the goods as they were cleared from the factory must be considered, irrespective of whether galvanising amounts to manufacture or not. He reiterated the grounds of appeal. The respondent has requested a decision on the basis of submissions enclosed to his letter of 4th February, 1995.

3. The ground of the department's appeal is that since the bolts, nuts and washers were cleared together, the value of all these have to be taken into account. The appeal affirms that galvanising by itself does not amount to manufacture. Hence, if the respondent had purchased the bolts, nuts and washers and was only engaged in galvanising them before clearance it would not have been engaged in any manufacture and no duty would be liable to be paid. When the Notification 71/78 speaks of value of clearance for calculating the exemption, it obviously refers to the value of clearance of such goods manufactured by the assessee, excise duty is a duty on manufacture. Therefore, what has to be seen is whether the respondent, by purchasing the nuts and washers and attaching them to the bolts has engaged in manufacture. A moment's reflection, we would venture to suggest, will show the answer to be in the negative. There is, at most, an assembly of these three items. It is not as if by putting together these three items a new, different product having a distinct name, character and function has emerged. The bolts, nuts and washers each continue to serve the purpose for which it was manufactured. The respondent's claim that if the entire assembly is to be considered as one item, the goods should not be classifiable under Tariff Item 52 but [under] Tariff Item 68 is not entirely far-fetched. For if the goods cease to be fasteners, they would no longer be classifiable under Item 52. It is right when it says that the assembly of these three items cannot be used as it is, and each of these has to be separated before it can be used. In short, the position is that the bolts, nuts and washers each continue to be fasteners classifiable under Tariff Item 52. Since putting them together for the purpose of clearance and [hence] not manufacture, nor is there a claim that galvanising is a manufacture, the Collector was correct in his finding.