

Collector of Customs Vs. Royal Opticians

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-18-1996

Reported in : (1996)(87)ELT283TriDel

Appellant : Collector of Customs

Respondent : Royal Opticians

Judgement :

1. This is a Collector's appeal against the order-in-appeal, dated 16-1-1995 classifying the item "Metal Temples of Spectacles frames" as mountings described under sub-heading 9003.19, as they are made up of metals. The Learned Collector has examined the samples and also taken into consideration large number of Bills of Entry in which parts like hinges, screws, nose, pads, tips, bridges etc. had been cleared on payment of CVD under sub-heading 9003.90. He has held that in this scheme of classification, frames and mountings of spectacles are clearly described under Chapter Heading 9003. Parts of frames and mountings like screws, hinges etc. fall under sub-heading 9003.90. The impugned goods are metal temples for spectacles, hence they have been held to be classifiable as mountings described under heading 9003.19.

2. The Revenue in this appeal have contended that Explanatory Notes given for 90.03 at page 1461 of HSN states "All parts of frames includes spectacle side pieces and side piece cores, hinges or joints, eyerims, bridges, non-pieces, spring devices for pince-noz, handles for lorgnettes, etc." It is stated that the item is temples or arms of spectacles and therefore, it is required to be classified as arms

of spectacles under sub-heading 9003.90 as parts of spectacles.

3. We have heard Shri A.T. Usman, the Learned DR for the Revenue and Shri Sandeep Narain, the Learned Advocate for the importer.

4. The Learned DR argued the case on the basis of the grounds made out in the appeal memo.

5. The Learned Advocate submitted that there are three constituents of the frames: 1. frame, 2. mountings and 3. parts. He submitted that the item in question are mountings and are not parts. Parts are hinges, screws, nose, pads, cores and spring devices. He submitted that the Collector had not considered the item in question as "parts of the spectacle frames" and he has considered the "arms of the spectacles" as "mountings" and hence they are not to be classified as "spectacle parts" under sub-heading 9003.90 but as "frames and mountings" and being of metal they would fall under sub-heading 9003.19, while those of plastics fall under sub-heading 9003.11. He submitted that the item has been described in the Bills of Entry as "metal temple" and being a mounting of the frame, it is not a part of the spectacle and hence it cannot be considered under residuary sub-heading 9003.90 as claimed by the Revenue in this case.

6. We have carefully considered the submissions made by both the sides and have perused the records. The Tariff description of Heading 90.03 of the Customs Tariff is reproduced herein below :9003.11 - Of plastics 65% 99.039003.19 - Of other materials 65% 90.039003.90 - Parts 65% 90.03" 7. The Learned Collector has classified the item within the category "frames and mountings" and being of metal, he has classified under 9003.19 and rejected the plea that the item in question is a part. The question before us is as to whether the side arms of the spectacles falls within the category of "frames and mountings" or whether it is a part of the spectacles. The understanding of the term spectacle in common parlance is that includes a frame and the side arms. The side arms are separately fitted as a mounting. The definition of the term mount as appearing in Chambers English Dictionary is also as under :- "that upon which a thing is placed or in which it is set for fixing, strengthening, embellishing, esp. the card surrounding a picture." 8. Therefore, the arms are mounted on the frame of the spectacle and the

"frames" and "mountings" are both not for spectacles, goggles or the like. "Frames and mountings" if they are of plastic would fall under 9003.11 and if they are of metal they fall under 9003.19. The Collector has rightly noted various parts of the spectacles like hinges, screws, nose, pads, tips, bridges, etc. As has been rightly noted by the Collector, the arms are mounted on the frames and therefore, they are mountings and being of metal they are rightly classified under 9003.19 as held by the Learned Collector.

9. We do not find any infirmity in the order, hence we uphold the order by rejecting this appeal.

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