

Customs, Excise and Gold Tribunal - Delhi

Standard Motors Products (I) Ltd. vs Collector Of Central Excise on 30 May, 1985

Equivalent citations: 1985 (5) ECR 1807 Tri Delhi, 1986 (24) ELT 155 Tri Del

ORDER S.D. Jha, Member (J)

1. The question for decision in this appeal, originally a Revision Application to Government of India, is the value of clearances of the appellants for determining their eligibility of exemption from duty under Notification No. 158/71, dated 26-7-1971.

2. The Assistant Collector of Central Excise, Madras II Division, by his Order-in-Original dated 25-4-1977 included in the clearances the value of the outer spring eye of Rs. 33,637.88 and the value of bolts, nuts and screws of Rs. 58,347.57 manufactured by other manufacturers from out of raw material supplied by the appellants. In appeal the Appellate Collector of Customs and Central Excise by order dated 15-10-1979 held that value of pin outer spring eye should be excluded, but he upheld the Assistant Collector's order regarding value of bolts, nuts and screws being included in the clearances. Appellants then filed Revision to Government of India which is the present appeal.

3. In the grounds of appeal and before us it is urged that the Appellate Collector of Customs erred in finding that bolts and nuts manufactured by others out of raw materials supplied by the appellants were goods manufactured for and on behalf of the appellants. Shri Ramsubramaniam, learned Advocate for the appellants, submitted that merely because raw materials for the bolts and nuts were supplied by the appellants to other manufacturers and bolts and nuts manufactured out of them were given back to the appellants, it could not be said that the appellants were manufacturers of these bolts and nuts. In support of his argument Shri Ramsubramaniam relied on the following decisions :

(i) Abdul Lathif and Ors. v. Assistant Collector of Central Excise (Citation not given and copy not supplied).

(ii) Philips of India v. Union of India-1980 E.L.T. 263; Gangadhara Ramachandara v. Collector of Central Excise-\919 E.L.T. J 597.

(iii) Andhra Re-Rolling Works v. Union of India-1979 E.L.T. J 600.

(iv) R.K.H. Industries and Anr. v. Union of India and Anr.-1984 (16) E.L.T. 40.

(v) Lucas Indian Service Ltd., Madras v. Collector of Central Excise, Madras-1984 (16) E.L.T. 415.

For the respondents Shri H.L. Verma defended the orders passed by the lower authorities.

4. We find that the question whether the manufacturers by others were for and on behalf of the appellants was decided by the Appellate Collector following his another decision in Order-in-Appeal No. 1078-79 dated 31-7-1979. A copy of this order has also been produced by the appellants before us. In this order, after reciting the appellants' contentions about this part of the claim, the learned

Appellate Collector recorded the following discussion and finding about the same :

"I do not agree with the contention of the appellants that the value of bolts, nuts and screws fabricated by others should not be taken into consideration for the purpose of arriving at the value of total clearances, as the raw materials were supplied by the appellants and only labour charges were paid and, therefore, manufacture of these bolts, nuts and screws fall under definition contained in Section 2(f) of the Central Excise Act, 1944 and this should be considered as the manufacture by the appellants. Consequently, the value of these bolts, nuts and screws should be included in the total manufacture of such products by the appellants."

5. The above would show that there was no material in the said order which could lead to an inference that manufacture by others was for and on behalf of the appellants. Merely on the basis of this decision the learned Appellate Collector could not have so concluded. It is true that in the order of the Assistant Collector in para 3 there is a reference to appellants' representative admitting that the bolts and nuts of value of Rs. 58,347.57 were manufactured by their (appellants') ancillary manufacturers out of raw materials used by the latter. Further, during personal hearing it was given out that appellants supplied raw materials to the ancillary manufacturers. This was explained by Shri Ramsubramaniam by urging that the admission about other manufacturers being appellants' ancillaries was used not in the strict sense of the term but only loosely. Besides, this was not a ground set put in the show cause notice, and therefore could not be made a basis of finding at the adjudication stage. Show cause notice is not available on our file but the same was read out to us during arguments. The show cause notice only mentioned others as the manufacturers without setting out any particulars of relationship between them and the appellants.

6. It is well settled, as will be evident from the decisions cited by the learned counsel for the appellants, that a manufacturer cannot be said to one for and on behalf of the other merely because he has received raw material for such manufacture. We accept Shri Ramasubramaniam's explanation regarding the use of the word 'ancillary' in the Assistant Collector's order and the context in which it was made. In our view, on the available material the learned Appellate Collector's finding that bolts and nuts manufactured by others were for and on behalf of the appellants cannot be sustained.

7. Parties agreed that if the value of bolts and nuts of Rs. 58,347.57 were excluded the appellants would be well within the exemption limit stipulated in the notification. As a result of aforesaid discussion the appellant is held eligible to concession under Notification No. 158/71, dated 26-6-1971 and their clearances within the limits stipulated therein. The demand raised against the appellants is set aside and appeal allowed.