

Customs, Excise and Gold Tribunal - Delhi

Rolcon Engineering Co. Ltd. vs Cce on 24 December, 2004

Equivalent citations: 2005 (99) ECC 426, 2005 (182) ELT 482 Tri Del

Bench: S Kang, Vice, A T V.K.

ORDER S.S. Kang, Vice President

1. Heard both sides.

2. The appellant filed this appeal against Order-in-Appeal passed by the Commissioner (Appeals) whereby the Commissioner (Appeals) held that Link Plates and Link Pins manufactured by the appellant and cleared to M/s. Elecon Engineering Co. are classifiable Under Heading 8431.00 of the Central Excise Tariff, as parts of material handling equipment. The appellant claimed the classification Under Heading 7308.20 as part of Industrial Chains.

3. The contention of the appellant is that they are manufacturing Industrial Chains which are classifiable Under Heading 73.08 of Tariff and these Link Plates are being used as part of the Industrial Chains, therefore, are rightly classifiable alongwith the Industrial Chains.

4. The contention of the Revenue is that Link Plates and Links Pins which are manufactured as part of Industrial Chains are classifiable Under Heading 7308.02 of the Central Excise Tariff whereas the Link Plates and Link Pins, in dispute, are manufactured by them on the special design supplied by M/s Elecon Engineering and these Plates and Pins are independently supplied by M/s. Elecon Engineering to be used with Idler (material handling equipment). The contention of the Revenue is also that the appellant failed to prove that these Plates and Pins can be used with Industrial Chains manufactured by them.

5. In this case the dispute is in respect of Link Plates and Link Pins, which are cleared without Industrial Chains and are manufactured in accordance with specific drawing and design, supplied by the customer. These Link Plates and Pins are used by their customers as parts of material handling equipment (Idler). On a specific query from the bench whether these Plates and Pins can be used with the Industrial Chains manufactured by the appellant the reply was in negative. In these circumstances, as the Link Plates and Link Pins are manufactured are rightly classifiable alongwith the material handling equipment.

6. The appellant never declared to the Revenue regarding the manufacture of above-mentioned Plates and Pins which are not similar to the Pins and Plates which are used with Industrial Chains, therefore, the extended period of limitation was rightly invoked by the lower authorities. The appeal dismissed.