CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 20864 of 2018

(Arising out of Order-in-Appeal No.99/2018 dated 28.02.2018 passed by the Commissioner of Customs (Appeals), Bangalore.)

M/s. Bosch Ltd.,
Post Box No. 3000,
Hosur Road,
Adugodi,
Bengaluru – 560 030.

Appellant(s)

VERSUS

The Commissioner of Customs,
Bangalore Customs Zone,
C.R. Buildings,
Queens Road,
Bangalore – 560 001.

Respondent(s)

APPEARANCE:

Mr. Syed Peeran with Ms. Ashwini Nag and Ms. Shambhavi, Advocates for the Appellant.

Mr. K.A. Jathin, Deputy Commissioner (AR) for the Respondent.

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

FINAL ORDER NO. 21631 /2024

DATE OF HEARING: 16.12.2024

DATE OF DECISION: 16.12.2024

PER: R. BHAGYA DEVI

This is an appeal filed against Order-in-Appeal No.99/2018 dated 28.02.2018 passed by the Commissioner of Customs (Appeals), Bangalore.

2. The appellant M/s. Bosch Ltd. import raw materials, components, and parts to manufacture sparking plugs, fuel injection, pumps etc. The appellant had imported forging for injector body for captive use and classified the goods under CTH 8409 9990. During the course of OSPC audit, it was observed that the above goods were unfinished forged bodies which have to undergo further major process before they could be used as a part in the fuel injection system manufactured by the importer. Since, they were formed to be unfinished forged injector body, it was opined that the goods are rightly classified under CTH 7326 1990 as articles of 'iron and steel'. Accordingly, the Commissioner upheld the classification under CTH 7326 1990 and also suppression was invoked on the ground that the appellant had misused a facility of "Accredited Client" by mis-declaring the imported goods as parts.

3. The learned counsel on behalf of the appellant submitted that the appellant is a leading manufacturer of fuel injection systems in India and had cleared the disputed goods on 10.12.2013 on payment of appropriate duty by classifying the same under CTH 8409. It is submitted that 'Forgings for injector body(unfinished)' is used in the manufacture of fuel injector assembly. It is also stated that the impugned product is manufactured by the foreign manufacturer solely and principally used with the specific type of engine and vehicle, as specified by the appellant and the material, dimensions, shape and design is considered on the basis of the drawings sent by the appellant. Therefore, the goods are rightly classifiable under CTH 8409 as per Note 2(b) of Section XVI of Customs Tariff Act, 1975 and based on the HSN Notes of Section XVI. It is also submitted that the impugned product is an unfinished forging which requires further working for manufacture into the finished injector body but has the essential characteristics of the injector body and

hence, cannot be classified under CTH 7309 as 'articles of iron and steel'. Reliance was placed on Circular No.13/1998 dated 18.05.1988 wherein it was clarified that parts of cycle rikshaws, which were forgings that had attained the essential characteristics of parts were to be classified under specific headings and not on the basis of the constituent material. Reliance was also placed on the following decisions.

- **BCL Forgings Ltd. Vs. Commissioner of Central Excise: 2006 (200) ELT 55 (Tri.-Del.)**
- **Bajaj Auto Ltd. vs. Collector of Customs, Bombay: 1988 (33) ELT 367 (Tribunal)**
- **Bharat Heavy Electricals Ltd. Vs. Collector of Customs: 1987 (28) ELT 545 (Tribunal)**
- **Motor Industries Co. Ltd. Vs. Collector of Customs: 1992 (62) ELT 412 (Tri.)**

3.1 The learned counsel further submits that the entire demand is time barred because the show-cause notice dated 07.02.2015 was issued based on the audit observations invoking suppression and mis-declaration. It is submitted that interpretation of classification or availing the benefit of exemption Notification are matters of legal interpretation and no *mens rea* can be attached. It is also stated that though audit had objected to the classification much earlier, the notice came to be issued only after one year by invoking suppression which cannot be sustained. Relied on the following decisions:

- **Bahar Agrochem & Feeds Pvt. Ltd. Vs. Commissioner of C. Ex., Pune, 2012 (277) ELT 382 (Tri. Mum.)**
- **Densons Pultretaknik Vs. Commissioner of Central Excise, 2003 (155) ELT 211 (SC)**
- **Commissioner of Central Excise Vs. Pragathi Concrete Products (P) Ltd., 2015 (322) ELT 819 (SC)**
- **Commissioner of Central Excise Vs. MTR Foods Ltd., 2012 (282) ELT 196 (Kar.)**

4. The Learned Authorized Representative on behalf of the Revenue reiterating the findings of the Commissioner, submitted that the impugned goods are rightly classifiable under CTH 7326 1990 as 'articles of iron and steel'. Relied on the following decisions:

- **BCL Forgings Ltd. Vs. Commissioner of Central Excise Aurangabad: 2008 (224) ELT 286 (Tri.-Del.)**
- **Collector of Customs, Bombay Vs. Bajaj Auto Ltd.: 2002 (148) ELT 86 (Tri.-Del.)** upheld by Hon'ble Supreme Court **2003 (152) ELT A257 (SC)**
- **Jaypee Forges Vs. Collector of Central Excise, Bombay: 1996 (83) ELT 49 (Tri.)**
- **Sunil Forging and Steel Ind. Vs. Commissioner of Central Excise, Belapur: 2016 (332) ELT 341 (Tri. Mum.)**

5. Heard both sides. The limited issue to be decided is whether the impugned goods are classifiable as parts of injector body forging under CTH 8409 99 90 or as unfinished forged or stamped articles of iron and steel under CTH 7326 1990. The Bill of Entry 3966445 dated 02.12.2013 and 4034678 dated 10.12.2013 are placed on record where the appellant had specifically described the impugned products as 'Forging for injector body (unfinished)' and 'Koerper Endstufe (forging) classifying the same under 8409. The audit note dated 14.10.2014 stated that "the said injector body is used in the final product namely, fuel injection system being manufactured by the assessee………since the said goods are unfinished forged injector body, they are appropriately classified under CTH 7326 1990 as forged or stamped articles of iron or steel but not further worked" but show-cause notice came to be issued only on 07.02.2015 invoking misclassification, misrepresentation of facts and suppression. From the above observations of the audit, it is clear that the impugned product is used in the manufacture of fuel injection system and the fact that the product is unfinished is also clearly mentioned in the Bill of Entry.

Therefore, the question of misdeclaration or suppression of facts does not arise as rightly claimed by the appellant. Moreover, based on the images placed on record, we find that the impugned product has already taken the shape of injector body which after further processes being carried out is used in the fuel injection system. Based on the literature of the product, it is not in dispute that the impugned products being used as part of injection fuel system. The Board vide Circular No.13/88 dated 18.05.1988 at Para 3 has clearly held that 'in case forging and forged products of iron and steel have acquired essential character of parts and accessories of cycles by virtue of having approximate shape or outline of the finished product……….could be classified as parts and accessories of cycles……..'. In the instance case, the product has attained a particular shape and has to be necessarily used in the manufacture of fuel injection system, hence it cannot be considered as an article of iron and steel. The HSN Notes under Chapter 7326 states as follows: "This heading does not cover forgings which are products falling in other headings of the nomenclature (e.g. recognised parts of machinery or mechanical appliances) or unfinished forgings which require further working but have the essential character of such finished products." In view of the above, we do not find any reason to classify the impugned product which is admittedly an unfinished forging under CTH 7326. Moreover, if it is an identifiable product used in a particular machinery, therefore, it has to be classified as part of the machinery as per definition of parts and hence, the goods are rightly classifiable under CTH 8409 9990. The decision relied upon by the Revenue are not relevant in view of the fact that the forgings therein were found to be articles of iron and steel in view of the fact that they had not attained the essential character of finished parts of motor vehicles. Accordingly, in view of the above and based on the various decisions relied upon by the appellant, we find that the impugned products are unfinished parts of fuel injection system and hence, rightly classifiable under CTH 8409 9990.

Appeal is allowed with consequential relief, if any, as per law.

(Operative portion of the order was dictated and pronounced in open court on conclusion of hearing)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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