CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
CHENNAI

Appeal No. E/168/2004

[Arising out of Order-in-Appeal No.519/2003 (P) dt. 17.10.2003 passed by the Commissioner of Central Excise (Appeals), Chennai]

Commissioner of Central Excise,
Pondicherry

Appellant

Versus

REIL Electricals(I)Ltd.

Respondent

Appearance:

Shri K.P. Muralidharan, AC (AR)
For the Appellant

None
For the Respondent

CORAM :

Hon'ble Ms. Sulekha Beevi C.S. Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of hearing / decision : 11.07.2017

FINAL ORDER No. 41212/2017

Per Bench

The facts of the case are that respondent-assessee are manufacturers of heavy duty starter motors for use in internal combustion engines which they sought to classify under Chapter Heading 8409.00. However, they were advised by department to classify the same under 8511.00 as Electrical Item rather than as a part of the automobile. The assessee accordingly classified the item under 8511.00 under protest. In adjudication, original authority vide order dt. 27.08.1998 vacated the protest of the assessee and held that the impugned item is correctly classified under Chapter Heading 8511. In appeal, the Commissioner (Appeals) vide impugned order dt. 17.10.2003 allowed the appeal, inter alia, on the following grounds:

(i) The item manufactured is cranking motors which are parts for I.C Engines, which are assembled out of imported parts;

(ii) The imported component parts are described as Electrical component parts falling under ITC description "PARTS SUITABLE FOR USE SOLELY AND PRINCIPALLY WITH THE ENGINES OF HEADING Nos.8407 or 8408".

(iii) The assessment and classification done by the Customs authorities cannot be reopened by Central Excise authorities.

Aggrieved by the above order of Commissioner (Appeals), the department has filed this appeal.

2. On 11.07.2017, when the matter came up for hearing on behalf of the department, Shri K.P. Muralidharan, AC (AR) reiterated the grounds of appeal. He further submits that even if components intended for manufacture of starter motor are imported and cleared by Customs under Chapter 8409, however, when such components are assembled distinct goods emerge classifiable under a different heading.

3. None appeared for the respondent.

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4. On going through the facts of the matter, we take note of the respondent's plea before the Commissioner (Appeals) recorded in page – 2 of the impugned order, namely *that there is no particular heading for this Heavy Duty Cranking Motor under heading 8511.00 as contended in the findings. Under such circumstances, when the above product as a part if suitable for use solely and principally with a particular kind of machine, are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate, in terms of Section Note 2 (b) under Section XVI of the schedule to the Tariff Act which deals with chapter 84 and 85. As per the above section note, it is established beyond doubt that the above part namely Heavy duty Cranking Motor manufactured by the appellants as parts, suitable for use solely and principally with the I.C. Engines of Headings 8407.00 or 8408.00 have to be necessarily classified under sub-heading 8409.00 of the schedule to the Tariff Act".* We find considerable merit in this argument which assessee had put forth and only consequent to which, the matter was decided by Commissioner (Appeals) in their favour. Thus, we are not able to find any infirmity with the impugned order for which reason, the appeal is dismissed.

(Operative part of the order pronounced in court)

(Madhu Mohan Damodhar)
Member (Technical)

(Sulekha Beevi C.S)
Member (Judicial)

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