
(2003) 11 SC CK 0113
In the Supreme Court Of India
Case No : Civil Appeal No. 5334 Of 1996

Collector of Central Excise	Vs	APPELLANT
Jaypee Forges		RESPONDENT

Date of Decision : 13-11-2003

Acts Referred:

Central Excise Tariff Act, 1985 — Tariff Item 73.26

Citation : (2003) ECR 807 : (2003) 158 ELT 560 : (2003) 12 SCC 496

Hon'ble Judges : P. Venkatarama Reddi, J;A.C. Lakshmanan, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

In this appeal the only issue relates to the correct classification of the products in question which are described as forgings and forged articles of alloy steel by the assessee-respondent. Its claim is that the articles fall under Tariff Item 73.26 of the Central Excise Tariff Act, 1985, whereas the claim of the Department is that it falls under Item No. 87.08 as parts of motor vehicles, viz. "gears & pinions". The learned members of the Tribunal constituting majority were of the view that the goods in question were submachine forgings and several processes have to be gone through before the articles were brought to required specifications and dimensions. It was observed thus :

"In the present stage, they have just emerged from forging, without acquiring any essential characteristic of a part of a motor vehicle. The Revenue has not placed any evidence that the article has acquired such a shape and there has been further working of such a nature, that it is no longer an article of forging. The photographs of the product have been shown and the same are in the file. The impugned goods are straight from forging without any processes undertaken on it except the chipping of excess material around it".

2. Having regard to this finding of the majority members of the Tribunal, which appears to be reasonable, it is futile to contend that the goods have to be

classified as parts of motor vehicles. This very finding of the Tribunal negatives the scope for any argument based on the 1st part of Rule 2a of Interpretation Rules contained in Central Excise Tariff Act. Therefore, we see no substance in the appeal of the Revenue. In fact, it may be stated that a similar view was taken by the 1998 (77) ECR 606 and that order of the Tribunal has been confirmed by this Court vide 1997 (94) E.L.T. 5 (Veekay Industries v. Collector of Central Excise, New Delhi).

3. The learned Senior Counsel appearing for the appellant has tried to overcome the above precedent by contending that Rule 2(a) of the Interpretation Rules was not considered by the Tribunal in the aforementioned case; but, as we observed *supra*, in the light of the findings recorded by the Tribunal there is no scope to invoke the Rule that is sought to be relied upon. Hence the appeal is dismissed. No costs.