

(1993) 08 SC CK 0064

In the Supreme Court Of India

Case No : Civil Appeal No. 678 of 1980

Electronics Ltd.

APPELLANT

Vs

Superintendent of Central Excise

RESPONDENT

Date of Decision : 25-08-1993

Acts Referred:

Central Excises and Salt Act, 1944 — Tariff Item 40

Citation : (1995) 75 ELT 724 : (1995) 3 SCC 236 Supp

Hon'ble Judges : S. P. Bharucha, J;B.P. Jeevan Reddy, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. This appeal is preferred against the judgment and order of a Division Bench of the Punjab and Haryana High Court dismissing the Letters Patent Appeal preferred against the judgment of a learned single Judge. The learned Single Judge had dismissed the writ petition filed by the appellant claiming a direction to the respondents to treat the trolley, on which the "Gulmarg" cooler manufactured by them, is mounted, as not excisable and for a further direction to refund the duty already collected by them from the appellant. The present dispute arose in the year 1968 when Tariff Item 68 was not on the Statute Book. The appellant's case was this : the trolleys manufactured by it are meant for and exclusively for the coolers manufactured by it, it is not 'furniture' within the meaning of Tariff Item 40 in the Schedule to the Central Excises and Salt Act, 1944. They are accessories of coolers. Coolers are dutiable under Tariff Item 20 but the said Tariff Item does not refer to or include accessories of coolers. The trolleys, therefore, are thus not subject to excise duty. Though the Collector, Central Excise agreed with the appellant (vide his Letter dated 23/26th April, 1968), in the first instance, the Inspector, Central Excise wrote to the appellant subsequently that the steel trolleys manufactured by it are excisable under Tariff Item 40 and calling upon him to remit the appropriate duty on that basis. Questioning the demand, the appellant approached the Punjab and Haryana High

Court by way of writ petition.

2. The writ petition was heard by a learned Single Judge who held that trolleys are 'furniture', dutiable under Tariff Item 40. The Letters Patent Appeal against the said judgment was also dismissed.

3. The room coolers are dutiable under Tariff Item 29A of the Schedule to the Central Excise Act. The entry reads as follows :

0 29A. Refrigerating and air-conditioning appliances and machinery, all sorts and parts thereof :

(1) Refrigerators and other refrigerating appliances which are originally sold or offered for sale as ready assembled units, such; as ice makers, bottle coolers, display cabinets and water coolers,

(2) Air-conditioners and other air-conditioning appliances, which are ordinarily sold or offered for sale as ready assembled units, including package type of air-conditioners and evaporative type of coolers,

(3) Parts of refrigerating and air-conditioning appliances and machinery, all sorts.

Item 40 pertaining to steel furniture reads thus :

40. Steel furniture made partly or, wholly of. steel in or in relation to the manufacture of which any process is ordinarily carried on with the aid of power, whether in assembled or unassembled condition and parts of such steel furniture (but excluding slotted angles and channels made of steel).

4. Trolleys manufactured by the appellant are made of steel tubes. It is undoubtedly steel furniture. There is no separate Entry (Tariff Item) for trolleys. If so, we see no reason not to treat them as steel furniture and to hold them as non-dutiable by accepting the circuitous reasoning put forward by the appellant. The appellant wants us to treat them as accessories of coolers and since Tariff Item 29A(2) does not include, accessories, to treat them as not dutiable.

5. The High Court has rightly held against the appellant. We see no reason to interfere in the matter. The appeal is accordingly dismissed. No costs.