(1996) 10 SC CK 0076

In the Supreme Court Of India

Case No : Civil Appeal No. 2699 of 1987

New Chelur Manufacturers (P) Ltd. APPELLANT

Vs

Collector of Central Excise RESPONDENT

Date of Decision : 10-10-1996

Acts Referred:

Citation : (1997) 94 ELT 467 : (1998) 7 JT 592 : (1998) 9 SCC 140

Hon'ble Judges : A. M. Ahmadii, C.J;Sujata V. Manohar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The Assistant Collector of Central Excise, Trichur, issued a notice calling upon the appellant to show cause why the goods manufactured by the appellant should not be classified as parts of steel furniture falling within the scope of Tariff Item No. 40 of the Central Excise Tariff. That item reads as under:

"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)."

2. The rate of duty was stated to be 25 per cent ad valorem. The appellant showed cause by his detailed reply on 18-11-1982 wherein the appellant emphasized that the goods are used for industrial structures and are, therefore, not liable to be classified under the said entry. On 2-12-1982 the Assistant Collector ruled that the goods were parts of steel furniture and were classifiable under the afore-mentioned Tariff Item No. 40. However, on appeal the Appellate Collector, Madras by his order dated 19-4-1983 allowed the appeal holding that the articles could not be identified as parts of steel furniture and were, therefore, not dutiable under Entry 40. The department feeling aggrieved by this order of the Appellate Collector, Madras moved the Central Excise and Gold Control Appellate Tribunal (CEGAT). The Tribunal by its order dated 27-7-1987 allowed

the appeal reversing the view of the Appellate Collector, Madras and restoring that of the Assistant Collector, Madras. The assessee feeling aggrieved has approached this Court through this appeal contending that the view taken by the CEGAT was not correct and the correct view was the one taken by the Appellate Collector, Madras.

3. We have heard the learned counsel for the assessee at length as also the learned counsel for the Revenue. From the reply to the show-cause notice it is clear that according to the assessee the products in question were slotted panels, strips, corner tapes (sic), cladding sheets and partition plates, metal shoes, etc., used for assembling storage systems in industrial units which did not fall within the definition of steel furniture in Entry 40 afore-quoted. On the other hand the Revenue contends that these articles are those used in the manufacture or fabrication of steel furniture and, therefore, they were rightly classified under Item 40 of the Central Excise Tariff.

4. On a plain reading of Item 40 afore-quoted it is clear that steel furniture made partly or wholly of steel whether in assembled condition or parts of such steel furniture would be classified as steel furniture under Item 40 provided they do not fall within the exemption clause, namely, slotted angles and channels made of steel. Our attention was drawn to a Circular F. No. 33/26/68-CX-VII wherein it was stated that "specially designed manufactures of steel like counters, storage cabins, catwalks, etc., used in industrial establishments" cannot be regarded as steel furniture.

5. Our attention was also drawn to a communication bearing No. CBEC F. No. 33/26/68-CX-VII dated 21-11-1968 which states that the Board consider that letter racks and letter or paper trays do not attract Tariff Item No. 40 provided in the case of letter racks the dimensions which do not exceed 400 mm in length x 250 mm in width x 350 mm in height. Thus this communication expressly refers to letter racks and letter or paper trays only.

6. The expression steel furniture has not been defined. The Random House English Dictionary gives the meaning of the word "furniture" as "moveable articles as tables, chairs, bedsteads, desks, cabinets, etc., required for the use or ornament in a house, office or the like; fittings, apparatus or necessary accessories for something". The Shorter Oxford Dictionary mentions the meaning of the word "furniture", inter alia, as "moveable articles in a dwelling house, place of business, or a public building". The Webster''s English Dictionary defines furniture as "articles of commerce or decoration used to furnish a house" and New Webster''s English Dictionary defines it as "fitting, apparatus or necessary accessories for something; moveable articles as tables, chairs, desks required for use or ornament in a house or office". It will be noticed from these dictionary meanings of the expression "furniture" that it has a wide connotation and includes all those articles which are used in a dwelling house or a place of business and commerce or a public building to furnish the establishment. In the instant case the articles are used in an industrial establishment as a row of

shelves for displaying or storing products or industrial items in which that industrial establishment is dealing. Tariff Item No. 40 specifically excludes slotted angles and channels made of steel which would otherwise, perhaps, have fallen within the definition of steel furniture or parts thereof.

7. In reply to the show-cause the appellant pointed out that the supplies were made to industrial undertakings for being used in setting up storage structure, catwalks, counters, etc. Thus these items are used for the erection of storage structure, catwalks, ladders, etc., as permanent fixtures in industrial establishments. Circular F. No. 33/26/68-CX-VII however deals with specially designed completed items of steel such as counters, storage cabins, catwalks, etc. It will not cover panels, strips, cladding sheets, etc., which can be used for assembling storage racks or catwalks or other items of steel. The question then is whether these fall within the definition of steel furniture in Tariff Item No. 40 extracted above.

8. The Tribunal took note of the photographs of the storage system erected by the use of the manufactures in question and stated that they appear to be storage racks of large dimensions extending up to the ceiling of the godowns. But, states the Tribunal, they were essentially storage racks fabricated by use of slotted angles and slotted channels for erecting the skeleton structure and converting them into storage racks by partition plates, corner plates and cladding sheets, etc. For gaining access to these storage racks, catwalks and ladders prepared from the same materials, are used. Therefore, the parts manufactured by the appellant are being used for erecting storage racks as well as catwalks, etc., and the Tribunal felt that they could be properly classified as steel furniture under Tariff Item No. 40. In taking this view the Tribunal relied on the decision of the Gujarat High Court in Chandan Metal Products (P) Ltd. v. State of Gujarat, (1969) 23 STC 29 (Guj) . In that case the assessee was manufacturing iron and steel products, components, parts and accessories and applied to the Deputy Commissioner of Sales Tax for determination of the rate of tax payable on sales of shelving racks. The assessee contended that the shelving racks were meant for use in office and not for personal convenience or for decoration and, therefore, did not fall within the meaning of furniture. The High Court referred to the meaning of the expression "furniture" in the Shorter Oxford Dictionary which we have reproduced earlier and came to the conclusion that both the items were steel furniture and were liable to tax accordingly.

9. We find from the photograph shown to us by the learned counsel for the appellant that the parts manufactured by the appellant are used for erecting shelves in industrial establishment and since they are taken to almost the ceiling height, ladders and catwalks have to be erected for the purposes of approaching those shelves used for storing or displaying industrial stocks. In the circumstances, we are of the opinion that the parts other than slotted angles and channels used in the erection of shelves and storage system would fall within the meaning of "parts of steel used in the preparation of steel furniture" under Tariff

Item No. 40 but not the slotted angles and channels made of steel which fall in the exclusion clause of Item 40.

10. For the above reasons we do not see any merit in this appeal and dismiss the same but with no order as to costs.

