

SUPREME COURT OF INDIA

Elgi Equipments

Vs.

Collector of Central Excise, Coimbatore

(S Bharucha, N S Hegde and S V Patil JJ.)

11.04.2002

ORDER

1. The assessee assembles mobile workshops which are, in effect, workshops inside trucks. They are used at construction sites and for restoring traffic on the highways after breakdowns. Among the equipment fitted in the workshop on the truck are steel tables and steel cup-boards which are fabricated by the assessee.

2. The assessee was served with a notice by the Revenue which recorded that the assessee was manufacturing and clearing mobile service units falling under Tariff Item 68 after observing due formalities and paying due excise duty. The officers of the Revenue had, however, found that the assessee's unit was also "engaged in the fabrication of steel tables and steel cup-boards in their factory premises. It is ascertained that the steel tables and cup-boards are meant for Mobile Service Units." The steel tables and cupboards fell within Tariff Item 40. The assessee did not hold a licence to manufacture goods under Tariff Item 40. In the circumstances, the assessee was called upon to pay excise duty upon the steel tables and cup-boards installed in mobile workshops cleared earlier.

3. The assessment proposed by the show cause notice was upheld on the basis that no evidence on record was available. The determination of the fact whether these goods could be used anywhere other than in a mobile service unit would, therefore, have to be decided on the examination of circumstantial evidence. That circumstantial evidence showed that every component going into the mobile service unit was not specially designed to be a part thereof but, in fact, was general purpose equipment and was merely fitted into the service unit. On this logic, it was held that the assessee should have discharged its obligation in respect of the steel tables and cup-boards by payment of duty under Tariff Item 40. The general purpose equipment that was referred to was machinery such as drilling machines, bench grinders, electrical drillers, etc.

4. The matter, ultimately, reached the Customs, Excise and Gold (Control) Appellate Tribunal, at the behest of the appellant. The Tribunal held that the point to be considered was whether the items in question were specially designed to be fitted into mobile service units. According to the Tribunal, what had been relied upon by the appellant did not throw any

light on this issue and the Tribunal was not convinced that the steel cup-boards and tables were specially designed to be fitted into the mobile service units.

5. What is relevant is the case of the Revenue in the show cause notice. The show cause notice itself stated that "the said steel tables and cupboards are meant for mobile service units." Therefore, the Revenue's own case was that the steel tables and cup-boards were specially designed to be fitted into mobile service units. They were necessary adjuncts to the machinery fitted in the workshops on the trucks and were fabricated for that purpose. We find no merit, therefore, in the contention on behalf of the Revenue that these steel tables and cup-boards should be treated as furniture and excise duty should be levied thereon accordingly.

6. The appeal is allowed. The judgment and order under appeal is set aside.

7. There shall be no order as to costs.