

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).5183/2007

M/S CAST METAL INDUSTRIES (P) LTD.

APPELLANT (S)

VERSUS

COMMISSIONER OF CENTRAL EXCISE-IV, KOLKATA

RESPONDENT (S)

O R D E R

The appellant/assessee is in appeal and has questioned the correctness and validity of the decision dated 10.08.2007 passed by the Customs, Excise and Service Tax Appellate Tribunal (EZB), Kolkata, rendered in the appeal which was filed by the assessee herein challenging the decision of the Commissioner whereby the Commissioner had classified the goods of the assessee under Chapter Heading 8302.00 while discarding the plea of the assessee that these goods are classifiable under Chapter Heading 8708.00. The goods in question are motor vehicles hinges and handles. The assessee is the manufacturer of motor vehicles parts which were supplied by the assessee to M/s. Tata Motors Limited, M/s. Hindustan Motors Limited and M/s. Mahindra & Mahindra Limited, the original equipment manufacturers. It is not in dispute that these motor vehicles hinges and handles are manufactured by the assessee on the basis of specifications given by the clients in the form of designs as well as part number. It is also not in dispute that the

hinges and handles are used only in the motor vehicles which are manufactured by the aforesaid manufacturers of the motor vehicles. In this backdrop, the question that fell for consideration is as to whether the goods are classifiable under Chapter Heading 8302.00 or Chapter Heading 8708.00. The two competing entries read as under:

87.08	8708.00	Parts and accessories of the motor vehicles of heading Nos. 87.01 to 87.05	15%
83.02	8302.00	Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, saddler, trunks, chests, caskets or the like; base metal hat-racks, hat-pegs, brackets and similar fixtures; castors with mountings or base metal; automatic door closers of base metal.	18%

It becomes manifest from the reading of the aforesaid two entries that whereas parts and accessories of motor vehicles are covered by Entry No. 8708.00, Chapter Heading 8302.00 deals with furniture fittings. Therefore, one can clearly find that the goods in question, which are specifically meant for motor vehicle as its parts, are the parts and accessories of the motor vehicles and merely because they are hinges and handles, these, by itself, cannot be treated as accessories or fittings of furniture as the use of the aforesaid items is specifically for motor vehicles and cannot be used generally for any other product much less furniture.

Mr. S.K. Bagaria, learned senior counsel appearing for the assessee, has submitted that the parts hinges and handles which are manufactured by the assessee meant for the motor vehicles have certain specifications which are as follows:

"DOOR HANDLE FOR MOTOR VEHICLES.

- a) It works in conjunction with inside design of the door locking system of the motor vehicles.
- b) It is manufactured strictly conforming to the designs and drawings of the concerned model of the vehicle as supplied by the motor vehicle manufacturers.
- c) On the exterior portion of the door handle, there is a push button. If it is pushed, the mechanism inside the vehicle hits and pushes the plate in the locking system. Thereby the locking mechanism inside the door panel enables the door to open.
- d) If it is the door handle for driver's door, it is provided with lock and key.
- e) In the motor vehicle manufacturer's drawing/design, part number of the handle is mentioned. This part number is also mentioned in the purchase orders as well as in the Invoices raised by the Appellant.
- f) The appellant manufactured door handles for the motor vehicles manufactured by three motor vehicle manufacturers, viz. Tata Motors Limited, Hindustan Motors Limited and Mahindra & Mahindra Ltd.

HINGES FOR MOTOR VEHICLES

- a) Hinges were manufactured as per the designs and drawings of the concerned model of motor vehicle as supplied by the motor vehicle manufacturers.
- b) These were for being fitted on the outside portion of the bonnet and dickey of the motor vehicles.
- c) These performed the function of enabling lifting of bonnet and dickey portions manually and at the same time preventing the said portions from going further back and hitting the main body of the vehicle.
- d) These were of the precise sizes and designs of the concerned models of the motor vehicles and at the same time the curve given to these parts precisely matched the curve of the body of the

motor vehicle at bonnet and dickey portions. The objection was that these can precisely rest without any gap on the body of the motor vehicle."

The aforesaid factual position is neither disputed nor it can be disputed by the Department. Notwithstanding the aforesaid position, we find that the Commissioner as well as the Tribunal have classified the goods under Chapter Heading 8302.00 by relying upon the Explanatory Note under Heading 83.02. This Note read as under:

"This heading covers general purpose classes of base metal accessory fittings and mountings, such as are used largely on furniture, doors, windows, coach work etc. Goods within such general classes remain in this heading even if they are designed for particular uses (e.g. door handles or hinges for automobiles). The heading does not, however, extend to goods forming an essential part of the structure of the article, such as window frames or swivel devices for revolving chairs."

On the face of it, this note would not be applicable as it is HSN Note which has diversion with the relevant entry and as the very first line thereof mentions that it covers those goods which are meant for "general purpose". In the instant case, as already pointed out above, the goods in question are meant for specific purpose viz. in the motor vehicles that too for specific model of the motor vehicles as its parts.

We also find that the issue is squarely covered by the judgment of this Court in the case of G.S.Auto International Limited vs. CC Excise, Chandigarh[2003(2) SCC 371]. In the said judgment, following the earlier decisions of this Court, the Court specifically held that to determine the applicability of the item

under particular head, the test of commercial identity of the goods would be the relevant test and not the functional test. It was also held that the expression "parts of general use" would not apply to parts or accessories which are not suitable for use solely or primarily with articles of Chapter Heading 87.08 which pertains to parts and accessories of motor vehicles of Chapter Headings 87.01 to 87.05. The Court was also categorical that in such a case the test that is to be applied is: 'whether the goods are suitable for use solely or primarily with articles of Chapter Headings 87.01 to 87.05'. It is strange even when the judgment was specifically brought to the notice of the Tribunal and is taken note of, but the same was not dealt with by the Tribunal in the impugned judgment at all.

We are of the opinion that the aforesaid judgment clinches the issue in favour of the appellant/assessee herein. Accordingly, the impugned judgment of the Tribunal is set aside and this appeal is allowed with no order as to costs.

.....J.
[A.K. SIKRI]

.....J.
[ROHINTON FALI NARIMAN]

NEW DELHI;
OCTOBER 15, 2015

ITEM NO.107

COURT NO.14

SECTION III

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 5183/2007

M/S CAST METAL INDUSTRIES(P) LTD.

Appellant(s)

VERSUS

COMMR.OF CENTRAL EXCISE-IV,KOLKATA

Respondent(s)

(With office report)

Date : 15/10/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Appellant(s) Mr. S.K. Bagaria, Sr. Adv.
Mr. Praveen Kumar, Adv.

For Respondent(s) Mr. A.K. Panda, Sr. Adv.
Ms. Binu Tamta, Adv.
Mr. Shankar Divate, Adv.
Mr. Rajiv Singh, Adv.
Mr. B. Krishna Prasad, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The civil appeal is allowed in terms of the signed order.

Interlocutory application(s) pending, if any, is also disposed of accordingly.

(Ashwani Thakur)
COURT MASTER

(Renu Diwan)
COURT MASTER

(Signed order is placed on the file)