

A M/S. PAHARPUR COOLING TOWERS PVT. LTD. CALCUTTA
v.
COLLECTOR OF CENTRAL EXCISE, CALCUTTA

MARCH 22, 1995

B [R.M. SAHAI AND S.B. MAJMUDAR, JJ.]

Central Excise Tariff:

C *Item 33(2)—Hub with blades known as 'Blade Assembly' used in cooling towers—Whether electric fan are assessable under Item 33(2)—Held: No.*

D The appellant was constructing cooling towers on contract. It purchased hubs and blades from the market, assembled them and fixed them in the cooling towers. The fans were mounted on the shaft of the motors. When the fans were removed from the appellant's factory, it did not have any electric motor or any other kind of device to generate electricity. The Tribunal held that since cooling towers are part of thermal electric generating station, such a station is part of an industrial system and the fans used in it were nothing but electric fans. This finding has been E challenged in these appeals.

Allowing the appeals, this Court.

F HELD: 1. The hub with blades known as 'Blade Assembly' was not an electric fan as assessable under Item 33(2). [935-G]

G 2.1. A very reading of the Entry under item 33(2) of the Central Excise Tariff indicates that any item to be assessable under this Entry must satisfy the basic characteristics of being an electric fan. The description about use, its indispensability and shape is to widen the ambit of the Entry but it would apply to such goods which are electric fans. Once any good satisfied the basic characteristics then its shape etc. would be immaterial. But if the good is not electric fan then merely because it was designed for industrial use as electric fan would not render it an electric fan. The Entry is not electric fan or any fan capable of being used as H electric fan. In fact the word 'as' has been used before the expression,

'parts indispensable for its operation'. Therefore, the duty under this Item is attracted on such electric fans which are not only designed for use in an industrial system but are indispensable for its operation. [936-E-F]

2.2 The entry has to be read both widely and narrowly. Widely as any good designed for use as mentioned irrespective of shape would be taxable under this Entry. Narrow because it must be electric fans. The Tribunal determined the leviability by the latter part. But that was not sufficient. The good must be electric fan and such fan must have been designed for use in an industrial system as part indispensable for its generation. The appellant had purchased hub and blades and assembled them. They were taken out from the factory in the same condition. No electric device to generate electricity was attached to it. Therefore, even if such assembly was fan it could not be held to be electric fan. [936-G-H]

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 1523-24 of 1986.

From the Judgment and Order 28.2.86 of the Customs Excise and Gold (Control) Appellate Tribunal, New Delhi in A.Nos. ED (SB) (T)/686/80-BI and ED (SB)(T)/190/82-BI.

C.S. Vaidyanathan, K.V. Viswantha and K.V. Venkataraman with him for the Appellant.

Joseph Vellapally, A. Subba Rao and (V.K. Varma Adv.) for Ms. Sushma Suri with him for the Respondent.

The following Order of the Court was delivered:

The question that arises for consideration in these appeals is whether hub with blades called by Paharpur Cooling Towers as 'Blade Assembly' was an "electric fan" assessable under Item 33(2) of Central Excise Tariff.

The Tribunal itself found that the appellant purchased hubs and blades from the market, assembled them and fixed them in cooling towers which they constructed on contracts. It further found that when the fans were removed from the appellant's factory it did not have any electric motor or any other kind of device to generate electricity. The fans were mounted on the shaft of the motors. But it held that most of the industrial

A fans are like that, therefore, it could not be held that such fans were not electric fans merely because they had no electric motors integrally built in it. The Tribunal held that since cooling towers are part of thermal electric generating station, therefore, such a station is part of an industrial system and the fans used in it was nothing but electric fan.

B Relevant Entry reads as under:

"Item 33(2):	
Description of goods	Rate of duty
Electric fans, designed for use in an industrial system as parts indispensable for its operation and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose, and regulators therefor."	Fifteen per cent <i>ad valorem</i>

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E A very reading of the Entry indicates that any item to be assessable under this Entry must satisfy the basic characteristics of being an electric fan. The description about use, its indispensability and shape is to widen the ambit of the Entry but it would apply to such goods which are electric fans. Once any good satisfied the basic characteristics then its shape etc. would be immaterial. But if the good is not electric fan then merely because it was designed for industrial use as electric fan would not render it electric fan. The Entry is not that electric fans or any fan capable of being used as electric fan. In fact the word 'as' has been used before the expression, 'parts indispensable for its operation'. Therefore, the duty under this Item is attracted on such electric fans which are not only designed for use but are indispensable for its operation. The Entry has to be read both widely and narrowly. Widely as any good designed for use as mentioned irrespective of shape would be taxable under this Entry. Narrow because it must be electric fans. The Tribunal determined the levibility by the latter part. But that was not sufficient. The good must be electric fan and such fan must have been designed for use in an industrial system as parts indispensable for its generation. The appellant had purchased hub and blades and assembled them. They were taken out from the factory in the same condition. No electric device to generate electricity was attached to it. Therefore,

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even if such assembly was fan it could not be held to be electric fan. A

In the result, the appeals succeed and are allowed. The orders passed by the Tribunal, Collector and Assistant Collector are set aside. The B question of law is decided by saying that the hub with blades known as 'Blade Assembly' was not an electric fan as assessable under Item 33(2). Parties shall bear their own costs.

G.N.

Appeal allowed.