

PART OF A PART IS NOT APART

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If A is related to B, B is related to C, then A is related to C is a basic mathematical theorem. Can this theorem be applied to the classification of "parts" under Central Excise Law? In other words, if A is a "part" of B and B is a "part" of C, can A be called a "part" of C?

Classification of "parts" in Central Excise Law is more complex than understanding Boolean Algebra. In this article we are not going to go into the nuances of classifying the "parts" but going to address a variant situation.

Exemptions to Central Excise duty are of different types. There are product oriented exemptions, end-use based exemptions, manufacturer based exemptions, input based exemptions, etc.

When a product is exempted based on its end-use, the manufacturer of such product may, in his factory, manufacture parts/ sub-assemblies of such products, and captively consume such parts/ sub-assemblies in the manufacture of his final product which is ultimately exempted based on such end-use. Now the moot question is, whether such parts/ sub-assemblies manufactured by him during the course of manufacture of his final product are also exempted or not.

Notification 67/95 exempts goods manufactured in a factory and captively consumed within the factory of production for further manufacture of final products. But to avail the said notification, the final products are to be dutiable. In the issue on hand, as the final products are exempted based on end-use, the above said notification will not come to the rescue of parts/ sub-assemblies manufactured and captively consumed.

Let us approach the issue, with reference to certain Notifications, circulars and case laws.

Notification 217/85 exempted parts falling under chapter headings 84 and 85 intended for use in the manufacture of diesel oil operated Internal Combustion Engines. In this context, a doubt arose as to whether the sub-assemblies required for the manufacture of such parts would also be entitled for the said exemption and the same was clarified in the affirmative, vide Board's Circular No.14/88 Dated 26.05.1998. This clarification is based on the objective behind the notification that all parts other than those which are excluded in the notification itself, shall be given the benefit of exemption.

It is also relevant here to refer to the decision of the Hon'ble Tribunal in the case of **CCE Vs Mahendra Engineering Works, reported in 1993 (67) ELT 134** where the facts of the case are exactly similar and explained below. Notification 64/86, as amended by notification 236/86, provided for exemption to **parts of power driven pumps falling under chapter heading 84.13**. In the said case, the benefit of the exemption was sought to be availed in respect of stampings and laminations manufactured by the appellants and falling under chapter heading 83.12, which in

turn was used in the manufacture of electric motors falling under chapter heading 84.12, which were ultimately used in the manufacture of parts of power driven pumps. As the stampings and laminations and the electric motors, falling respectively under tariff headings 83.12 and 84.12 are not covered under the above said notification, the benefit of the exemption was sought to be denied by the department. The Hon'ble Tribunal has held that, in as much as the stampings and laminations are used only in the manufacture of parts of power driven pumps falling under chapter 84.13, the benefit of the exemption cannot be denied. **As such, though the notification has provided for exemption only in respect of parts of power driven pumps falling under chapter heading 84.13, the Hon'ble Tribunal has held that such exemption is available, even in respect of stampings and laminations falling under chapter heading 83.12.**

The above judgement of the Hon'ble has been further followed in the cases of **Shriram Bearings Limited Vs CCE reported in 2001 (135) ELT 600** and in the case of **CCE Vs Jay Engineering Works Limited reported in 1998 (98) ELT 247.**

From the above, the following ratio could be drawn. If a product is exempted by a notification then all the parts and parts of such parts are also exempted, irrespective of the fact that, such parts of part, is notified in the exemption notification or not, if manufactured in a factory and used captively for the manufacture of such exempted final product. Otherwise, the intention of allowing the exemption will be defeated.

Parting shot. But the above said theorem does not always hold good. If A is the mother of B and B is the mother of C, then A is not the mother of C, but a grand mother!