

Electric bikes assembled from parts procured from China held as manufacturing for sec. 80-IC relief

Summary – The Ahmedabad ITAT in a recent case of Accura Bikes (P.) Ltd., (the Assessee) held that where assessee-company was assembling parts procured from China using simple machinery to produce electric bikes, since imported parts underwent a change and a new product was produced, assessee's activity would come under term 'manufacture' and deduction under section 80-IC would be allowed

Facts

- The assessee-company was manufacturing electric bikes by assembling parts procured from China. The bike design was registered with the patent office and exemption was given under excise duty on electric bikes. The assessee claimed deductions under section 80-IC.
- The Assessing Officer denied the claim contending that mere assembly of parts procured from China would not amount to manufacture and meager machinery was used by the assessee which could not generate large amount of turnover.
- On appeal before the Commissioner (Appeals), it was affirmed that the activity of the assessee was one of manufacturers and denial of deductions under section 80-IC was not in accordance with the law.
- On the revenue's appeal before the Tribunal:

Held

- Manufacture implies a change but every change is not manufacture, yet every change of an article is the result of treatment, labour and manipulation. Naturally, manufacture is the end result of one or more processes through which the original commodities are made to pass.
- The nature and extent of processing may vary from one class to another. There may be several stages of processing, a different kind of processing at each stage. With each process suffered, the original commodity experiences a change. Whenever a commodity undergoes a change as a result of some operation performed on it or in regard to it, such operation would amount to processing of the commodity. But it is only when the change or a series of changes takes the commodity to the point where commercially it can no longer be regarded as the original commodity but instead is recognized as a new and distinct article that a manufacture can be said to take place. Process in manufacture or in relation to manufacture implies not only the production but also various stages through which the raw material is subjected to change by different operations. It is the cumulative effect of the various processes to which the raw material is subjected to that the manufactured product emerges. Therefore, each step towards such production would be a process in relation to the manufacture. Where any particular process is so integrally connected with the ultimate

production of goods that but for that process processing of goods would be impossible or commercially inexpedient, that process is one in relation to the manufacture.

- The test to determine whether a particular activity amounts to 'manufacture' or not is: Does a new and different good emerge having distinctive name, use and character. The moment there is transformation into a new commodity commercially known as a distinct and separate commodity having its own character, use and name, whether be it the result of one process or several processes 'manufacture' takes place and liability to duty is attracted. Etymologically the word 'manufacture' properly construed would doubtless cover the transformation. It is the transformation of a matter into something else and that something else is a question of degree, whether that something else is a different commercial commodity having its distinct character, use and name and commercially known as such from that point of view, is a question depending upon the facts and circumstances of the case.
- If the activity of the assessee is being examined, then, it would reveal that the parts imported by the assessee from China had undergone a change and new product came to the light. The assessee has produced flow chart giving different stages how the product has undergone changes. This flow chart has been reproduced by the Commissioner (Appeals) while taking cognizance of the assessee's written submissions. As far as the objection of the Assessing Officer that the very meager machinery was being used by the assessee is concerned, the case of the assessee is that it requires only tools and not big plant to assemble parts. Similar, section 80-IC nowhere laid down condition for employment of specific number of employees. Therefore, that objection of the Assessing Officer is only irrelevant. Considering the finding of the Commissioner (Appeals), one does not see any reason to interfere in it. The appeal of the revenue is dismissed.