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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-25-1996

Reported in : (1997)(91)ELT587TriDel

Appellant : Keyar Industries

Respondent : Collector of Central Excise

Judgement :

1. This is an appeal filed by M/s. Keyar Industries, Madras being aggrieved with the Order-in-Appeal dated 13-1-1987 passed by the Collector of Central Excise (Appeals), Madras.

2. The matter relates to the classification of the goods described as Air Handling Unit (AHU). The appellants have sought to classify the AHU under Heading No. 84.14 of the Schedule to the, Central Excise Tariff Act, 1985. The Revenue had classified the goods in question under Heading No. 84.15 of the Tariff.

3. The appeal was originally fixed on 1-7-1987. The Consultant for the appellants requested for an adjournment to a date after 15th September, 1987. The matter was again fixed on 6-8-1996 and the notice to the appellants was issued on 18-7-1996. The notice was sent at the address given by them in their E.A. 3 Form. The notice was returned by the postal authorities with the remark "left". The notice for today's hearing was again issued on 22-8-1996 and this notice had also been returned back by the postal authorities with the remark "left". The appellants have not furnished any other address. This is an appeal of the year 1987 and the Order-

in-Original was passed in the year 1986. As the matter is very old, we are proceeding to deal with the matter after hearing Shri M. Jayaraman, JDR, who is present for the respondent/Revenue.

4. Shri M. Jayaraman, JDR briefly stated the facts and referred to the tariff entries at Heading No. 84.14 under which the appellants had sought to classify the AHU, and the Heading No. 84.15 under which Heading the Department had classified the products. It was his submission that the AHU was a specific part of the Air Conditioning Machine and they were manufactured for the customers, who were engaged in the manufacture of Air Conditioning Machines. The AHU is not a fan, which can handle air whether it is fresh or hot or conditioned. The assessment is as per Section Note 2 under Section XVI of the Tariff and not of the complete Air Conditioning Machine. As the AHU was suitable for use solely or principally with the Air Conditioning Machine, they were to be classified with the Air Conditioning Machine under Heading No. 84.15. He submitted that the view taken by the Collector of Central Excise (Appeals), Madras is correct and there is no ground for interfering with the view taken by him.

5. We have carefully considered the matter. The appellants have submitted that they are engaged in the manufacture of certain essential sections of the Air Handling Units (AHU), which comprise of various fabricated steel sheet section, coil section, filter section, damper, damper humidification chamber, etc. They have claimed that these units are not more than a component of centrifugal, blowers, curved, multibladed blowers revolving in a volute case. They have further stated that these sections when assembled by the customers at their site together with necessary equipments such as cooling coils condensers, compressors, filters, motors with belt and pulley could be said to form a complete AHU of the Central Air Conditioning Plant. They have however admitted that for marketing purposes, the products produced by the appellants are called AHU units.

6. The appellants have sought to classify these products as described above under Heading No. 84.14, which is extracted below :-Heading No. Description of Goods84.14 Air or vaccum pumps, air or other gas compressors and fans; ventilating or 7. It will be seen that fan among other items is included in Heading

No. 84.14. The goods as described above are obviously not a fan. The various parts will also not make a fan. The parts such as damper humidification chamber, damper, filter section, coil section, etc. had no application in a fan.

8. The Revenue had classified the products under Heading No. 84.15, which is extracted below:-Heading No. Description of Goods84.15 Air Conditioning machines,comprising a motor-driven fan and elements for 9. The product literature supplied by the appellants clearly indicates the application of these goods for Air Conditioning purposes. The customers for whom the goods were manufactured on specific orders were leading Air Conditioner's manufacturers like M/s. Voltas Ltd., M/s.

Utility Engineers (India) Ltd., M/s. Blue Star Ltd. In fact, originally the appellants classified their products under Heading No. 84.14 w.e.f.

1-3-1986 and it was only on 14-4-1986 they filed a revised classification list. They have contended in the written submissions before the adjudicating authority that AHU were capable of being used in various applications for handling air irrespective of its condition whether fresh or conditioned. The Asstt. Collector had observed that although AHUs did not add to the conditioning of the air directly, they were specially designed to be used in the Central Air Conditioning Plant and were suitable for use solely or principally with the Air Conditioning Machine and by virtue of Section Note 2 (b) to Section XVI, they merited classification under Heading No. 84.15. Section Note 2 is extracted below :- SECTION NOTE 2: Subject to Note to this Section, Note 1 to Chaper 84 and to Note 1 to Chaper 85, parts of machines (not being parts of the articles of heading No. 84.84,85.44,85.45,85.46 or 85.47) are to be classified according to the following rules :- (a) Parts which are goods included in any of the headings of Chaper 84 or Chapter 85 (other than heading Nos. 84.85 and 85.48) are in all cases to be classified in their respective headings.

(b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading No. 84.79 or heading No. 85.43) are to be classified with the machines of that kind. However, parts which are equally suitable for use principally with the goods of heading Nos. 85.17 and 85.25 to 85.28 are to be classified in heading No. 85.17.

(c) All other parts are to be classified in heading No. 84.85 or heading No. 85.48.

10. The appellants had not disputed that the goods were manufactured for Air Conditioner's manufacturers and that their principal use was as a part of the Air Conditioning Machine. In the case of Eskayef Limited v. CCE - 1990 (49) E.L.T. 649 (SC), the Hon'ble Supreme Court had observed that merely because a commodity could be used for other purposes will not detract its classification in a heading where it appropriately falls and that a substance does not cease to be patent or proprietary medicines merely because it can also be used for purposes other than prevention or treatment of diseases. The AHU air parts were used solely or principally with the Air Conditioning Machines and their classification as parts of Air Conditioning Machines by virtue of Section Note 2 (b) of Section XVI is correct.

11. The Collector (Appeals) had held that the AHU was not an air or vacuum pump nor it was a gas compressor. It could also not be said that it is a ventilating or recycling hood incorporating a fan. After studying both the Heading No. 84.14 and No. 84.15, he had confirmed the classification under Heading No. 84.15.

12. In view of the above discussion and keeping in view the nature of the product, their use and utility, we do not find any infirmity in the order passed by the Collector of Central Excise (Appeals). As a result, this appeal is rejected. Ordered accordingly.