

Collector of Cus. Vs. Kodi Medical Electronics Pvt.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-11-1997

Reported in : (1998)(98)ELT535TriDel

Appellant : Collector of Cus.

Respondent : Kodi Medical Electronics Pvt.

Judgement :

1. This appeal is directed against the Order-in-Appeal dated 26-11-1987 passed by Collector (Appeals). The Respondent imported rechargeable battery and claimed benefit of Notification No. 235/83 on the ground that these batteries were part of medical electronic equipment.
2. Arguing on behalf of the Revenue the Id. D.R. submits that the goods are correctly classifiable under Heading 85.05 as batteries. These are general purpose batteries and cannot be considered as parts of Medical equipment. There is distinction between parts and accessories and he submits that this has been clearly brought out in Tribunal's Order No.C/188/97-B2, dated 10-2-1997 1997 (92) E.L.T. 382 (Tribunal).
3. None appeared on behalf of the Respondents when the matter was called.
4. We have heard the Id. D.R. and perused the records. Notification No.235/83, dated 18-8-1983 exempts parts (parts other than parts containing thermionic valves or transistors or similar semi-conductor devices or light emitting diodes or

electronic micro circuits or capacitors other than paper capacitors) required for the manufacture of medical electronic equipment. There is no dispute about the parts as are specifically excluded. The basic question is whether such batteries can be considered as parts of electronic medical equipment. It has been contended before us that catalogue itself indicates that the batteries had various application and it is of general nature and not designed for any particular instance. We find that the battery is merely a source of power and cannot be considered as integral part of electronic medical equipment. There is clear distinction between parts and accessories and even though the medical equipment would not work without the battery the battery nevertheless cannot be considered as part of the equipment but at best only accessory.

5. In view of this we find considerable merit in Revenue Appeal and therefore we set aside the impugned order and allow the Revenue appeal.

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