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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-07-1997

Reported in : (1997)(94)ELT543TriDel

Appellant : C.C.E.

Respondent : Universal Information Commn.

Judgement :

1. In this appeal filed by the Revenue, the matter relates to the classification of the product referred to as 'Display Equipment'. The respondents M/s. Universal Information Communication Equipment Ltd., Bombay, had classified the said Display Equipment under Heading No.90.13 of the Central Excise Tariff. A show cause notice was issued on 5-6-1987 alleging that the said goods were classifiable under Heading No. 90.09 of the Tariff as parts of the photocopying machine. The matter was adjudicated by the Asstt. Collector of Central Excise, Bombay, who without specifically discussing the nature of the product or its use decided that all the six products which were the subject matter of the show cause notice dated 5-6-1987 were classifiable under Heading No. 90.09 of the Tariff. He also denied the exemption under Notification No. 175/86-C.E., dated 1-3-1986. On appeal, the Collector of Central Excise (Appeals), Bombay, accepted the contention of the appellants that these goods i.e. 'Display Equipment' were correctly classifiable under Heading No. 90.13 of the Tariff.

2. In appeal the Revenue had contended that the Display Equipment was a part forming the display screen for an article which collects electrical

missles/signals/converts for various parts of the photocopier. It converts it into signals of the appropriate type and channels it into appropriate leads of the liquid crystal device. The Revenue has sought classification under Heading No. 90.09 on the ground that the product in question was specifically designed to suit the photocopying machine.

3. The matter was posted for hearing on 7-7-1997, when Shri M.Jayaraman, JDR, appeared for the appellants/Revenue. The respondents have prayed for decision on merits.

4. Shri M. Jayaraman, JDR, referred to the show cause notice and the order passed by the Asstt. Collector Central Excise. He referred to the Section Notes under the new Central Excise Tariff and pleaded that the view taken by the adjudicating authority was correct and as the goods in question were part of the photocopying machine, their classification under Heading No. 90.09 was correct.

5. We have carefully considered the matter. In these proceedings, we are only concerned with the one of the six items which were the subject matter of the show cause notice. While for the other five products, the respondents had agreed that those were used as part of the photocopying machine, we find that with regard to the display equipment they have contended that they were correctly classifiable under Heading No.90.13. The Heading No. 90.13 cover the following: "Liquid crystal devices not constituting articles provided for more specifically in other headings; lasers, other than laser diodes; other optical appliances and instruments, not specified or included elsewhere in this Chapter." "9.9 Appellants submit Display Equipment classified under H. No. 90.13 of CETA, 1985 has been correctly classified. These gadgets are used to provide large or meaningful indication of any input. These equipments convert electrical signal to visually meaningful symbols which can be easily read. They may be made either for observation at a close distance or outdoor display for public viewing in public utility services, industries, offices, etc. It is an equipment having independent functions as such. Appellants have classified this gadgets under the Heading No. 90.13 of the tariff after having consulted the technical experts. In classifying the said gadgets in Heading No. 90.09 the learned Asstt. Collr. has absolutely failed to

apply his mind and done so arbitrarily." 6. We find that as regards this particular products 'Display Equipment', there is no reference to their being part of photocopy apparatus classifiable under Heading No. 90.09 which covered "photocopying apparatus incorporating an optical system or of the contact-type and thermo-copying apparatus".

7. The Collector of Central Excise (Appeals), Bombay, with regard to this product has held as under: The appellants have stated that these instruments are classifiable under Heading 90.13 of CETA, 1985. These instruments are used to provide large or meaningful indication of any input. They convert electrical signals to visually meaningful symbols which can be easily reads. They may be made either for observation at a close distance or outdoor display for public viewing in public utility services, industries, offices, etc. Thus it is an equipment which has an independent function and is therefore capable of being used anywhere where requirements so warrant. The appellants have quoted Explanatory Notes under Heading 90.13 on the Customs Harmonised Tariff in support of their contention. It has been very clearly stated there that this heading includes liquid converting devices consisting of a liquid crystal layer sandwiched between two sheets or plates of glass or plastics, whether or not fitted with electrical connections, presented in the piece or cut to special shapes and not construing articles described more specifically in other Heading of the Nomenclature. In view of the Explanatory Notes, I accept the contention of the appellant that these instruments are correctly classifiable under Heading 90.13 of CETA, 1985. The order of the Assistant Collector is modified accordingly." 8. We find that six products were involved in the proceedings before the adjudicating authority and he had without any specific discussion about the display equipment classified all the six products as part of the photocopying machine. As we have discussed above there is no dispute before us in these proceedings about the other products and the way the respondents had described the products in question and as discussed by the Collector of Central Excise (Appeals) in his order-in-appeal, we do not find any material to differ with the view taken by the learned Collector of Central Excise (Appeals). We also take note of the fact that the statement of Shri Ramamurthy dated 18-5-1987, as referred to in the show cause notice, dealt with the products logic controllers, monitoring equipment, power controllers and power supplies.

There is no reference to the product display equipment and at no stage the respondents had admitted that the display equipment formed part of the photocopying machine.

9. Taking all the relevant facts and circumstances into account, we do not find any material to differ with the view taken by the Collector of Central Excise (Appeals), Bombay and as a result, the appeal filed by the Revenue is rejected.

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