Collector of Customs Vs. Pragati Computers Pvt. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-21-1997

Reported in : (1997)(96)ELT342TriDel

Appellant : Collector of Customs

Respondent : Pragati Computers Pvt. Ltd.

Judgement :

1. This Revenue Appeal is against the order of the Collector (Appeals), Madras extending the benefit of exemption under Notification No.281/84-Cus. in terms of Sl. No. l(b) of the table annexed thereto which covers Winchester Disk Drives. The Collector (Appeals) has extended the benefit of the notification to Winchester Disk Drive with controller as imported by the Respondents herein. According to the Revenue, as seen from the Encyclopedia of "Electronics - 2nd Edition" by Gibilisco/Scalter that Winchester Disk Drive is a circuit that permits the host computer to read data from the disks or platters of disk drives or write into them and it manages the exchange of data between the Central Processing Unit (CPU) and storage devices at high speed. It is the argument of ld. DR that the benefit is available only to disk drives and not to disk drives with controllers. According to him the controller performs definite and purely independent function from the disk drives. Disk drives act as storage area and disk drive is interfaced with the controller. He submits that since the benefit of the notification is available in terms of l(b) of the table only to simple Winchester Disk drives, the Collector (Appeals) has erred in extending the benefit thereof to disk drive with controller imported by

the Respondents. On the other hand it is the submission of the ld.Counsel that the disk drives with controller are nothing but disk drive, the Controller is embedded within the disk drive itself and the catalogue of the imported goods treats disk drive with controller as nothing but disk drive. He therefore, submits that there is no error in extending the benefit of notification to the goods imported by the Respondents.

2. We have heard both sides and carefully considered the submissions.

From the materials placed on record and technical literature in the form of the Penguin Dictionary of Information Technology and Computer Science it is seen that Winchester is a form of Rigid Disk drive that uses a non-removable rigid disk or stack of disks on spindle and this design has been accessed for most hard disk drives. The hard disk is a disk drive storage medium or tapes on which recording surface are rigid in contrast to floppy disk where the recording service is flexible. The same dictionary describes Winchester Disk as under :- "Winchester disk. A hard disk widely used with personal computers.

It is physically small, so that it can be fitted inside the processor unit of a personal computer or in a box that sits under the screen unit, and has flying heads that float some 10 to 20 microns above the recording surface. It has a storage capacity ranging from ten to several hundred megabytes. The drive is totally sealed, which makes the disk highly reliable but also non-removable.

It was invented at IBM's San Jose Laboratories in the 1970s.

'Winchester' was IBM's internal code name for the development project." The definition of magnetic storage contained in Glossary of Computers Today, 3rd Edition of Donald H. Sanders is utilisation of the magnetic properties of materials to store data on such devices and media as disk tapes and chips. The Winchester disk drive is no doubt to be considered as a Magnetic disk drive but this by itself is not sufficient, for determining whether the goods imported namely disk drive with Controller are entitled to the benefit of the notification. What is to be seen is whether the drive embedded with the controller is covered by the description "Winchester Disk Drive". It is seen from the Winchester hard disk plates with controller to its master cord storage system used bound with the computer and controller on a single expansion and this single body is also called controller because primary function and advantage in accompanying nature is taken for granted.

4. The ld. DR is correct in his submission that the addition of the controller which is a circuit permitting recording of data from the disk by the use of computer takes it out of the coverage of entry in Sl. No. l(b) of the Notification. The argument of the ld. Counsel for the Respondents that the benefit cannot be denied in view of the certificate issued by the Department of Electronics is not acceptable because the certificate covers magnetic disk and not disk drives with controller and we have already noted that addition of Controller [alter] the character of the disk drive because the controller is the one which acts as an interfacing to get the storage area for transfer of data from the storage area to the C.P.U. Since the Notification at Sl. No. l(b) covers only storage disk drive while the goods imported are disk drives with controller which we have held are not simple disk drive, the benefit of the notification cannot be extended to the imported goods. Accordingly, we set aside the impugned order and allow the Revenue Appeal.