Krone Communications Limited Vs. Collr. of Cus.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-03-1997

Reported in : (1998)(97)ELT486TriDel

Appellant : Krone Communications Limited

Respondent : Collr. of Cus.

Judgement :
1. M/s. Krone Communications Limited, Bangalore were engaged in the manufacture of 'telephone connectors' including back panel connectors.

They had imported 2000 numbers of Back Mount Frame 2/10.11 way [flat] and described them in the Bill of Entry as 'telecommunication components'. They sought classification of the back mount frame under sub-heading No. 8538.90 of the Customs Tariff and claimed concessional rate of customs duty under Notification No. 134/86-Cus., dated 17-2-1986 as amended. The Asstt. Collector, Customs under his order dated 15-5-1990 observed that the back mount frame was nothing but part of the transmission equipment used in telecommunication like automatic telephone exchange. He classified the goods in question under sub-heading No. 8517.90 of the Customs Tariff. On appeal, the Collector, Customs (Appeals), Bangalore held that the goods imported were steel frame on which connectors were to be mounted and they were used to be ultimately in telephone exchange.

2. Under their communication dated 5-3-1997, the appellants have prayed for decision on merits.

3. We have heard Shri S.N. Ojha, JDR for the respondent Revenue and have gone through the facts on records.

4. In the invoice, the goods have been referred to as 'back mount frame 2/10.11 way flat'. In the B/E, the importers described their goods as telecommunication components. Heading No. 85.38 of the Customs Tariff under which the appellants had sought to classify their goods covers "Parts suitable for use solely or principally with the apparatus of Heading No. 85.35, 85.36, or 85.37." Heading Nos. 85.35 and 85.36 cover "Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits. By way of example, reference had been made to switches, fuses, lightning arresters, voltage limiters, surge suppressors, plugs, junction boxes." Heading No. 85.35 covers "for a voltage exceeding 1000 volts" and Heading No. 85.36 covers "electrical apparatus ... for a voltage not exceeding 1000 volts". The appellants were engaged in the manufacture of telephone connectors including back panel connectors. We do not consider that the electrical apparatus classifiable under Heading Nos.

85.35 and 85.36 were the apparatus for telecommunication. These were the apparatus for control and distribution for electricity. The reference to the voltage makes it clear that these were not apparatus for the telephones. Heading No. 85.37 of the Tariff amply clarifies this position. Heading No. 85.37 covers "Boards, panels (including numerical control panels), consoles, desks, cabinets and other bases, equipped with two or more apparatus of Heading No. 85.35 or 85.36, for electric control or the distribution of electricity, including those incorporating instruments or apparatus of Chapter 90, other than switching apparatus of Heading No. 85.17." 5. The goods in question were steel frame having holes for fixing up various terminal blocks used in automatic telephone exchange. On the steel frame, various connectors were to be mounted. As per catalogue, the various components were fixed on the frame and to become complete installation, the connectors in this case were for line telephony and not for electrical control or distribution of electricity.

6. Under Heading No. 85.17, electrical apparatus for line telephony or line telegraphy, including such apparatus for carrier-current line systems, were classifiable. Under sub-heading 8517.90, parts of such apparatus were classified. The automatic switchboards and exchanges have been described in the HSN Explanatory Notes at pages 1361 and 1362 at Volume 4 as under : These are of many types. The key feature of a switching system is the ability to provide, in response to coded signals, an automatic connection between users.

Some types of automatic switchboards and exchanges consist essentially of selectors, which select the line corresponding to the impulses received from the calling sets and establish the connection. They are operated automatically, either directly by the impulses from the calling set or via auxiliary apparatus such as directors.

The different types of selectors (pre-selectors, intermediate selectors, final selectors) and where used, the directors, are often assembled in series and in groups of the same type on chassis which are then incorporated into the exchange on metal racks. Particularly in smaller sized installations they may, however, all be mounted on a single rack to form a self-contained automatic exchange.

7. The appellants were engaged in the manufacture of telecommunication components. The 'Back Mount Frame' imported by them was for the manufacture of telecommunication apparatus. The product literature and the invoice clearly demonstrate that the goods were meant for telephony. They were not for electric control for further distribution of electricity. In Para 4 of his order, the Collector, Customs (Appeals), Bangalore had observed as under: "4. I have considered the submissions made. I have gone through the order of the Asstt. Collector. The appellant has imported a Back Mount Frame. This item is, as I find, according to the Asstt.

Collector, is a steel frame having holes for fixing up various terminal blocks. The appellants claimed that this is, 1 part of connector manufactured by them. They had also relied on certain Bills of Entry under which the goods were said to have been classified under 8538.1 have gone through the various Bills of Entry and I find that barring one in none of the Bills of Entry the importers mentioned the impugned item by name i.e. Back Mount Frame.

The description in the Bill of Entry reads only components of connectors. This does not conclusively substantiate the arguments of the appellants that Back Mount Frame has been included in this.

There is no evidence to show that these goods have been in fact assessed under 8538. No other evidence was produced which would go to show that the Back Mount Frame is a part of the connector. From the description given I find that these are nothing but a Steel Frame on which connectors are to be mounted and these are to be used ultimately in Telephone Exchange. 1 would, therefore, agree with the Asstt. Collector in his classifying the goods under 85] 7.90. The appeal is accordingly rejected." 8. In view of the above discussions, we do not find any infirmity in the view taken by the Collector, Customs (Appeals), Bangalore. In the appeal before the Collector, Customs (Appeals), the appellants have referred to some of the Bills of Entry under which similar goods had been classified under Heading No. 85.38 of the Tariff. This aspect had been discussed in the order-in-appeal. In these Bills of Entry, the goods had been described as "components of connectors - connection boxes, components of connectors and as electrical apparatus for switching or protecting electrical circuits." In the documents before us, the goods have been clearly described as "telecommunication components". The Collector, Customs (Appeals) had clearly mentioned that on this steel frame, the connectors were to be mounted and the installation after the connectors were mounted on the steel frame were for automatic telephone exchanges. The steel frame thus could not be considered as part of connectors and in no way they were concerned with electric control for distribution of electricity. We find that classification as decided by the Collector, Customs (Appeals) was correct.

9. In view of the above, there is no merit in this appeal and the same is rejected.