Collector of C. Ex. Vs. Elcom Precision Electronics Pvt.

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SooperKanoon Citation : sooperkanoon.com/13988

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-29-1998

Reported in : (1999)(108)ELT166TriDel

Appellant : Collector of C. Ex.

Respondent : Elcom Precision Electronics Pvt.

Judgement :

1. This appeal of the Revenue is directed against the Order-in-Appeal No. GSM-308/90 B. III, dated 28-3-1990 allowing exemption under Notification No. 160/86 in respect of 'actuators'. The aforesaid notification denies exemption to switches. The impugned order holds that 'actuator' in question is not switches and they are not commercially known as switches. The order also states that technically also they are not switches, though no reason for the finding has been given.

2. The Revenue has challenged the order on the ground that Explanatory Notes in Harmonised Commodity Description and Coding System (page 1389) clarify that push button switches are classifiable as 'switches'.

Revenue also submits that the Collector has committed an error in holding that the goods are not in commercial parlance 'switches'.

3. Learned DR reiterated the contentions made in the appeal. He drew attention in particular to the Explanatory Notes. When the case was called no one represented the respondent.

4. We have perused the records of the case and have considered the submissions. We find that the assessee in the classification list had described the goods as "Electrical Push Buttons various varieties (below 1000 volts)". We also note that the Explanatory Notes mentioned push button switches as classifiable under switches. The Collector has given a purely literal meaning to the concept of commercial identity by holding that the goods are not switches because they are not so called.

The product in question is called 'push snap-action snap-on push buttons' in the literature of the appellant. It performs the function of switches. Therefore,, there is no basis for holding that the product in question is not known and dealt with in commercial parlance as switches. Accordingly, the appeal succeeds and is allowed. The impugned order is set aside with consequential relief to the Revenue.