D.E.S.U. Vs. Commissioner of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-15-1998

Reported in : (1999)(106)ELT239TriDel

Appellant : D.E.S.U.

Respondent : Commissioner of Customs

Judgement :
1. There are two appeals. Notice for hearing was sent to the appellants on 5-8-1998 by registered post. But there is no response from the appellants. It is presumed that the notice for hearing must have been received by them in normal course. Accordingly we have heard the learned JDR from the side of the Revenue. We have also gone through the two appeals before us filed by the appellants herein.

2. In this appeal question of classification of Pulse Echo Fault Locator is involved. The appellants contended its classification under Tariff Heading 9030.39 whereas the Revenue authorities have classified under Tariff Heading 85.08. It has been found by the lower appellate authority that the catalogue does not indicate that the aforesaid instrument is measuring or checking instrument. Its only function is to find out faults in all types of cables and cable systems.

3. The appellants have stated in their memo of appeal that the Asstt.

Collector and the lower appellate authority have ignored the second part of Tariff Heading 90.30 which refers to "instruments and apparatus for measuring or detecting Alpha, Beta, Gamma, X-ray, cosmic or other ionising radiations". It is pointed out that a clear error on the face of records has been made in the impugned order. We are unable to understand the aforesaid ground of appeal taken by the appellants. The catalogue produced for the pulse echo fault locator does not indicate that in finding out the fault in the cable or cable system the said instrument measures or detects various types of rays as mentioned in the second portion of the Tariff Heading 90.30 and referred to by the appellants. We therefore hold that the instrument is not of the type referred to in Tariff Heading 90.30. Consequently we do not find any substance in the appeal. Hence we dismiss the same.

4. Question involved in this appeal is regarding the classification of spares of circuit breakers. The appellants have claimed classification under Tariff Heading 85.18/27 (3). The customs authorities, however, have assessed them under Heading 85.18/27(1).

5. The lower appellate authority in the impugned order has held that the claim of the appellants is not substantiated either by the documents or by description of the goods in the bill of entry or invoice etc. The appellants have also not furnished any catalogue to substantiate their claim that the imported goods are designed for use in circuits of 400V or above, or of 20Amps or above or for use with motors of 1.5 KW or above. The appellants, we observe, do not have a technical write-up. They merely rely upon a document which they claim to be technical write-up annexed at Annexure 'B'. On going through this annexure 'B', we observe that it is a certificate from the Asstt.

Engineer (Electrical), I.P. Power Station, Ring Road that the material imported is designed for use in circuits of 400V or above etc. In our view it is not a technical write-up. Technical write-up should show the nature of goods, the function of goods and the use to which it will be put. It is merely a bald certificate from an employee of the appellants themselves. We cannot give much credit to this certificate in support of the appellants claim, in the absence of any catalogue etc.

as rightly pointed out by the learned lower appellate authority. Hence we dismiss the appeal as unsubstantiated.