Collector of Central Excise Vs. Sterling Control P. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-06-1999

Reported in : (2000)(119)ELT381TriDel

Appellant : Collector of Central Excise

Respondent : Sterling Control P. Ltd.

Judgement :

1. In this appeal filed by the Revenue, the matter relates to the classification of electrical drum controllers, master controllers, drum switches and limit switches. These products were used for electric drum controller. The respondent M/s. Sterling Control P. Ltd. had sought classification of these goods under sub-heading No. 8537.00 of the Central Excise Tariff. A show cause notice was issued and the matter was adjudicated by the Assistant Collector of Central Excise who held the goods classifiable under sub-heading No. 8537.00. In the show cause notice, it was proposed that the goods should have been classified under sub-heading No. 8536.90. The Revenue took up the matter before the Collector of Central Excise (Appeals) and pleaded for classification of the said goods under sub-heading No. 8431.00. The Collector of Central Excise (Appeals) agreed with the view of the adjudicating authority and classified the goods under sub-heading 8537.00.

3. We have heard Shri R.D. Negi, SDR and have gone through the facts on record. The goods in dispute were drum controllers, master controllers drum switches and limit switches. They were used to switch a combination of multiple

electrical circuits to provide electrical control of equipments and machinery. Sub-heading No. 8537.00 covers boards, panels, consoles, desks, cabinets and other bases. Such boards, panels etc. for classification under this subheading were to be equipment with two or more apparatus of Heading No. 85.35 or Heading 85.36. The goods in dispute are neither boards nor panels. They are also not consoles, desks or cabinets. They are also not in the nature of bases for electric control or distribution of electricity. They are separate identifiable items as goods for classification under sub-heading No. 8537.00 were to be in the nature of bases which were equipped with different parts, we consider that their classification under sub-heading 8537.00 was not proper.

4. The Revenue had sought classification under sub-heading No. 8431.00 which covers parts suitable for use solely or principally with the machinery of Heading No. 84.25 to 8438.00. It had been pleaded by the Revenue that the goods in question were usable in cranes. It has, however, being admitted that the goods could be used for other purposes also. As the goods in question were designed to provide electrical control of equipment and machinery and have more than one uses, they have pleaded that they could be classified as parts suitable for use solely or principally with the machinery. In the grounds of appeal, the Revenue had stated that the goods could be used in cranes but could also be used elsewhere as claimed by the respondents. We, therefore, consider that their classification under sub-heading No. 8431.00 was also not correct.

5. In the show cause notice, it was proposed that the correct classification under the goods in question was sub-heading No. 8536.90 which covered electrical apparatus for switching or protecting the electric circuits or for making connections to or in the electrical circuits. By way of example, the items listed in the tariff entry are switches, relays fuses, surge suppressors, plugs, sockets, lamp holders, junction boxes. These items are listed by way of illustration only. In the appeal, Revenue had stated that these products are available in several current ranges. Drum controller in question could work at 400 to 440 volts. Printed literature of these drum controller shows that they are used in all types of electric operated cranes to control all motions. They are also used in hoists winches as well as for speed control of slipring or squirrel cage motors in various machines. They could

be used for different purposes where control of motor speed was required. It has also been added that as per the appearance and usage of the product, it was not purely a mechanical apparatus.

6. Keeping in view the product description and usage we consider that their classification under sub-heading No. 8536.90 of the Central Excise Tariff is appropriate.

7. Although the Revenue in the present appeal had sought classification under sub-heading 8431.00 and had not convessed the classification under 8536.90 as was proposed in the show cause notice, in the light of our above discussion, we do not agree with the classification as settled by the ld. Collector of Central Excise (Appeals) or as pleaded by the Revenue. However, as the classification under sub-heading No.8536.90 was not before the ld. Collector of Central Excise, in the interest of justice, we consider appropriate that this matter be re-examined in the light of our above observations.

8. In the light of the above discussion, the matter is remanded to the jurisdictional Assistant Commissioner for de novo consideration after providing an opportunity to the assessee before passing the order as per law.