Mx Software Services Ltd. Vs. Commissioner of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-08-1999

Reported in : (2001)(131)ELT422TriDel

Appellant : Mx Software Services Ltd.

Respondent : Commissioner of Customs

Judgement :
1. The issue involved in this appeal filed by M/s. MX Software Pvt.

Ltd. is whether the Xerox Document Centre DCS 230ST is classifiable as a printer under sub-heading 8471.60 of the First Schedule to the Customs Tariff Act as claimed by them or under sub-heading 8479.89 as confirmed by the Commissioner (Appeals) in the impugned order dated 28-8-1998.

2. Shri R. Parthasarathy, ld. Advocate, submitted that the impugned goods is a Digital Laser Printer with a Scanner mounted on the top of the Print engine and an inbuilt modem for fax transmission/reception; that the impugned product is a multifunction product; that the digital printing is the principal function and as per Note 3 to Section XVI of the Customs Tariff it is classifiable under sub-heading 8471.60. The ld. Counsel, further, submitted that as the Laser Printer is for automatic data processing machine it is specifically covered under Heading 84.71; that Note 5B to Chapter 84 is not applicable to the present matter; that Note 5B is applicable only for the purpose of determining when a unit may form part of an automatic data processing system and the said note is not applicable for

classifying separately presented units of ADP or for Printers, which in all cases are to be classified under Heading 84.71 by the Application of Notes 5C and 5D.He also mentioned that Note 5E is applicable only for classification of machines incorporating an ADP and performing specific functions other than data processing and machines presented with ADP and intended to work in conjunction therewith; that as the impugned goods do not incorporate an automatic data processing machine and has not been presented with an automatic data processing machine, Note 5E has no application at all to the facts of the case. He also referred to General Notes (E) of HSN under Chapter 84 (Page 1235) in support of his contention. Finally, he submitted that the very same item imported through Delhi Customs has been classified as printer under 8417.60; that the classification of similar machine Xerox Document work Centre PRO 535 (DC. 535) was held to fall under sub-heading 8471.60 by U.S.Customs.

3. Countering the arguments, Shri S. Ramanathan, ld. DR submitted that the impugned goods are multifunction machines not dependent for working on Automatic Data Processing (ADP) system; that to be a computer peripheral the unit should be incapable of working without computer and should be entirely dependent on ADP machine; that the goods in question can function as a stand alone digital copier; that HSN General Note (E) under Chapter 84 makes it clear that the machine presented with an automatic data processing machine and intended to work in conjunction therewith to perform a specific function must be classified in the heading corresponding to the function which they perform; that the principal function admittedly is digital printing and since digital printer is not classifiable under any specific heading, the impugned goods are to be classified under Heading 84.79 as machines and mechanical appliances having individual functions.

4. We have considered the submission of both the sides. The rival headings of the Customs Tariff read as under :"84.71 : Automatic Data Processing machines and units thereof; magnetic or optical readers, machines for transcribing data on to data media in coded form and machines for processing such data, not elsewhere specified or included.

x x x x x x x x8471.60 : Input or output units, whether or not containing storage units in the same housing.8479.80 : Machines and mechanical appliances having individual functions, not specified or included elsewhere in the chapter.

x x x x x x x x - Other machines and mechanical appliances.

5. The Appellants have claimed that Document Centre System 230 S.T.Simplex Printer with Accessories (DCS 230) is basically designed as a laser Printer, to be connected to a large network of automatic data processing machines; that DCS 230 has inbuilt printing protocols and network adapter for getting connected to various networks of computers working on Novell Netware or Microsoft Networking or Workgroups for Windows etc. The Heading 8471 covers Automatic Data Processing Machines and Units thereof. Explanatory Notes of HSN below Heading 84.71 provided that "This heading also covers separately presented constituent units of automatic data processing system." Note 5(D) to Chapter 84 clearly provides that printers, key board, X Y co-ordinate input devices and disk storage units which satisfy the conditions of paragraph B(b) and B(c) are in all cases to be classified as units of Heading No. 84.71. The conditions B(b) & B(c) are as under :- "B (b)It is connectable to the Central Processing Unit either directly or through one or more other units.

B (c) It is able to accept or deliver data in a form (codes or signals) which can be used by the System." 6. The Assistant Commissioner has given his finding in the adjudication order that the "Principal function is digital printing even 86% of the total machine is devoted to the said function." It has also not been disputed by the lower authorities that the impugned product is connected to an automatic data processing machine or network. The Assistant Commissioner has classified the product in question in residuary heading as it was not an exclusive unit of the automatic data processing machine as it can work independently. The reliance was placed on Note 5(B) to Chapter 84. We observe firstly that Note 5(D) is not subject to Note 5(E) and the Note applicable in the present matter is Note 5(D) and not 5(B). Secondly, even note 5(B)(a) provides that a unit is of a kind solely or principally used in an automatic data processing system which the impugned goods is. In view of this the impugned goods is classifiable under sub-Heading

8471.60. Accordingly the appeal filed by the Appellants is allowed.