Collector of Central Excise Vs. Cands Electricals (P) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-18-2000

Reported in : (2001)(130)ELT860TriDel

Appellant : Collector of Central Excise

Respondent : Cands Electricals (P) Ltd.

Judgement :

1. The department is in appeal against the order of the Collector of Central Excise, dated 21-2-1994 holding lock for breaker control switch as classifiable under Chapter sub-heading 8301.00 and spare coil and magnetic coil under sub-heading 8538.00.

2. In the grounds of appeal, the appellant Collector has contended that the mere reading of the name of the product would show that they are not used as locks but as parts of machines only. The basic function of these locks were to control different types of systems and not to function as a lock. As regards the spare coils and magnetic coils, it is contended, that these are nothing but induction coils classifiable under Chapter Sub-heading 8504.00. Reliance has been placed on Section Note 2(a) of Section XVI of the Central Excise Tariff Act, 1985 under which parts which are goods included in any of the headings of Chapter 84 or 85 are to be classified in their respective headings. HSN Explanatory Notes at pages 1337 and 1338 also suggested their classification under 8504 as induction coil.

5. We have considered the submissions and have perused the impugned order. The Commissioner had noted in the impugned order that the Assistant Collector before granting approval must have presumably made inquires before classifying the items under Heading 8301.00. He had observed that if the department wished to get the said approved classification be set aside, the evidence should have been produced to say why the goods should be classified otherwise. In the absence of any such evidence, the Commissioner had held that it was not possible for him to say that the conclusion of the Assistant Collector about the classification of the said goods was incorrect. As regards the spare coils and magnetic coils also, the Collector had referred to the definition of 'coils' in the McGraw Hill Dictionary of Scientific and Technical Terms while taking the view that the classification of coils under sub-heading 85.31 did not appear to be incorrect and was supported by Section Note 2(b) of Section XVI. He had not agreed with the contentions of the Revenue that the coil in dispute was an induction coil and therefore a substitute for transformer in the absence of any evidence or data produced by the Department. The Collector had in the result confirmed the Assistant Collector's order on the ground that the Revenue had not produced any evidence in support of their claim for classifying the goods differently.

6. We find that the Revenue appeal filed before the Tribunal also suffers from the very same deficiency pointed out by the Collector in the impugned order, namely, the lack of any evidence to support the Department's contention for classifying the impugned goods differently.

We therefore, find no reason to interfere with the orders of the authorities below as far as the classification of the items in dispute are concerned.