Commissioner of C. Ex. Vs. Data Patterns India Pvt. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Tamil Nadu

Decided On : Sep-06-2000

Reported in : (2000)(122)ELT804Tri(Chennai)

Appellant : Commissioner of C. Ex.

Respondent : Data Patterns India Pvt. Ltd.

Judgement :

1. The issue involved in this appeal preferred by the Revenue is whether the Data Acquisition and Control Systems manufactured by M/s.

Data Patterns (I) Ltd. are classifiable under Heading 90.32 of the Schedule to the Central Excise Tariff as confirmed by the Collector (Appeals) in the impugned order or under Heading 84.71 of the Tariff as claimed by the Revenue.

2. Shri S. Kannan, learned DR, submitted that the exclusion clause to note 5(b) of chapter 84 is not applicable in the present matter as the impugned goods themselves are not full fledged machines performing a specific function and the goods manufactured by the respondents are only part of Automatic Data Processing machines. According to him, the impugned goods are only various sub-assemblies connectable to computer and capable of being put to various end uses and as per note 5(b) of chapter 84, Automatic Data Processing machines may be in the form of a system consisting of a variable number of separately housed units and the impugned goods satisfy the conditions mentioned in clause (i) and (ii) of note 5(b) of chapter 84 and therefore, it is classifiable under heading

84.71.

3. Shri J. Sankararaman, learned Advocate for the respondents on the other hand, submitted that what are being manufactured and cleared by them is complete machines which perform the functions of measuring, controlling and regulating the pressure, flow, temperature, etc. and he referred to certain purchase orders which were placed by their customers with the respondents and pointed out that their goods consist of CPU and various other cards manufactured by them which provides specific functions. He emphasised that the exclusion clause under note 5(b) clearly applies to their products as they are incorporated with Automatic Data Processing control machines and perform specific function and the goods are covered by heading 90.32 of the Tariff.

4.1. We have considered the submissions of both the sides. We find that the Assistant Collector in the adjudication order has clearly given a finding to the effect that the impugned machines are having a well defined function of automatic measuring and controlling the parameter like pressure, flow, temperature, etc. and incapable of doing data processing. The Revenue has not brought on record any evidence either documentary or technical to rebut this findings of the adjudicating authority that these machines are incapable of doing data processing.

We also find that the Collector (Appeals) has given his categorical findings that the Process Control Equipment which is programmed with Process characterization data, is aided by the computers to analyse and interpret the data and the system is something custom made to suit the requirement of the particular industry. In view of these findings, both the authorities held that exclusion clause under note 5(b) of chapter 84 squarely covers the impugned goods and they have to be classified according to their specific functions. It is not denied by the Revenue that the functions performed by these machines are covered by heading 90.32. Exclusion clause in note 5(b) reads as under: "Heading No. 84.71 does not cover machines incorporating or working in conjunction with an automatic data processing machine and performing a specific function. Such machines are classified in the heading appropriate to their respective functions or, failing that, in residual heading." 4.2. It is apparent from the reading of this clause that heading 84.71 will not be applicable to the machines incorporated with Automatic Data Processing Machines to perform specific functions. The learned Counsel for the respondents also referred to the Explanatory Note to HSN below heading 84.71 which provides that appliances such as measuring or checking instruments adapted by the addition of devices to enable them to be connected directly to a data processing machines, are in particular, not to be regarded as specifically designed as parts of automatic data processing systems and appliances fall to be classified in their own appropriate heading. Accordingly, we see no reason to interfere with the impugned order and therefore reject the appeal filed by the Revenue.