

Ujval Unique Tech. P. Ltd. Vs. Commissioner of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-25-2000

Reported in : (2001)(127)ELT230TriDel

Appellant : Ujval Unique Tech. P. Ltd.

Respondent : Commissioner of Customs

Judgement :

1. The issue involved in the present appeal, filed by M/s. Ujval Unique Tech. Pvt. Ltd. is whether Master electricity meter, Remote Terminal Unit and Line Amplifier are classifiable under Sub-heading 9028.30, of the First Schedule to the Customs Tariff Act (CTA, in short) as claimed by them or under sub-heading 8517.80 as other apparatus of carrier current line system as confirmed by the Commissioner (Appeals), under the impugned Order.

2. Shri R. Parthasarathy, Id. Advocate, submitted that all the three items imported by the Appellants are integral components of the system to accurately measure/monitor the amount of electric power consumed and consequently the assessment of all the three items should be made under subheading 9028.30 C.T.A. He explained that Remote Terminal Unit (RTU) is installed at any existing Watt-hour meter in the premises of individual consumer, that R.T.U. will read the consumption and using existing power lines for data Communication, transmits consumption and other data to the concentrator Central processing unit; that if distance is much, Line Amplifier is placed in between on power line; that the main feature of the impugned goods are measuring the amount of power consumed,

real time calculations and real time response accumulation, calculation and analysis for power consumption customer wise according to time of use, tariff table etc., that the system also includes additional future time of use table for long range planning; that the system also carry reports on the loading of each of the three phases and the reports of the last 10 failures, technical status, reports, etc., that the impugned items are for remote reading of several remote units and are not at all apparatus for telephony or telegraphy or for carrier current. He further, submitted that the Commissioner (Appeals) has himself accepted that the Concentrator (Master Electricity Meter) is used for remote reading of electricity meters; that Heading 90.28 covers several types of electricity supply meter such as multiple rate meters, prepayment meters, etc. having special features and accordingly the conclusion in the impugned Order that the usual ordinary electric meters which measures the consumption of power alone falls under Heading 90.28 is obviously not correct. He also mentioned that Heading 85.17 covers only telephone apparatus, automatic/Non-automatic switch boards and exchanges, and telegraphic apparatus for carrier current line system or for digital line system such as multiplexers, modems, etc. He finally submitted that Note 3 to Chapter 90 makes the provisions of Note 4 to Section XVI of the Tariff applicable to Chapter 90; that according to the said Note 4, where a machine (including a combination of machine) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function, then the whole falls to be classified in the heading appropriate to that function; that accordingly all the three items are to be classified under Heading 90.28 only. He referred to the Explanatory Notes of HSN under Chapter 90 according to which Chapter 90 covers, as functional unit the electrical instruments which make up an analogue or digital telemetering system and these are: (a) apparatus at the transmitting end (a primary delector, a measurement amplifier, transmitter and receiver basic unit, a pulse or frequency modulated transmitter) (b) Devices at the Receiving end (a pulse, frequency modulated or digital signal receiver, a measurement amplifier or converter, indicating or recording instrument).

3. Countering the arguments, Shri R.K. Sharma, Id. SDR, submitted that heading 90.28 does not cover the impugned goods as only instruments for recording the

consumption of electricity are covered under said heading; that the impugned goods instead of recording the supply of electricity are appended to the electric meters; that the goods are simple devices to retrieve the data from electric meter and the data communicated is analysed. He, further, emphasised that the impugned goods are appliances for the purposes of reading the data of consumption of electricity from electric meter and communicating the same through power line; that even as per the Explanatory Notes in HSN for chapter 90, line or radio transmitters and receivers for telemetering pulses, remain in their respective headings (heading 85.17, 85.25 or 85.27 as the case may be). In reply the Id. Advocate submitted that even if a meter consists transmitters, it will be covered by Heading 90.28; that any item which measures supply or production of electricity will be covered by Heading 90.28 and in their product leaflet it is clearly mentioned that it measures electricity.

4. We have considered the submissions of both the sides. The remote terminal unit which is installed at the existing Watt-hour meter does the function of optical reading of electricity which has been consumed by a consumer. Such reading is transmitted through the power line to the Concentrator. The Id. Advocate has rightly pointed out that the Explanatory Notes of HSN provides that chapter 90 covers as functional units the electrical instruments which make up an analogue or digital telemetering system. Notes below Heading 85.17 clearly excludes such system from the purview of heading 85.17. As the impugned goods are combined as a single unit with the apparatus at the transmitting end as well as devices at the receiving end, in the light of Note 3 to Chapter 90, the impugned goods are to be considered as a functional unit, falling under Heading 90.28 only. Accordingly the appeal filed by the appellants is allowed.

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