Voltas Ltd. Vs. Commissioner of C. Ex.

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SooperKanoon Citation : sooperkanoon.com/20342

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jan-10-2001

Reported in : (2001)(74)ECC213

Appellant : Voltas Ltd.

Respondent : Commissioner of C. Ex.

Judgement :

1. This appeal is against the order of Commissioner (Appeals) who confirmed the order of Assistant Collector proposing the classification list for parts of air-conditioners for evaporators and condensers for motor cars under 8415.00 as parts of Car-Air Conditioners, which wore claimed under 8419.00 by the appellants.

2. Heard both sides, and after considering the material and the submissions, we find :- (a) The appellants had filed a classification list No. 1/92 under protest, since a classification for the impugned items had already been approved and it was the price list 9/91 effective 20-12-91 which was required to be approved in respect of compressors, condensers and evaporators of various makes of cars which the appellant was required to sell to various manufacturers of automobiles as original equipment and to wholesale dealers. However, the Superintendent returned the Price Lists stating that the products in Classification List and Price List should tally. A SCN was thereafter issued, as to why the condenser and evaporator should not be classified under Heading 8415.00 as parts of air conditioner.

The approval was granted on 16-7-92 by OIO FI/90/92 w.e.f 8-1-92 thereafter under 8415.00 and not under 8419, after hearing the appellants, Classification List No. 4/92, dated 2-3-92 and Price List 2/92, dated 28-4-92 were also filed which were approved with an endorsement as per order dated 16-7-92.

(b) The present appeal is against the Order-in-Appeal No. GS/684/BI/93, dated 28-9-93 which is confirming the Order-in-Original No. FI/90/92, dated 16-7-92.

(c) As stated in ground 9.2 of this appeal -"...the respondents had failed to appreciate that the said auto air conditioning kits as stated in CL 1/90 included not only the condenser and evaporator but also other items such as brackets, pulleys, belts, receivers etc.

which together formed a kit. The appellants deny there was any sudden switch over in the classification as has been held by the respondent. The CL No. 1/92 which is subject matter of this appeal was filed at the instance of the department. The CL No. 1/90 (finally approved by the department covers other items which constitute an auto air conditioning kit. CL No. 1/92 covers only three specific items of an air conditioning machinery such as compressors, evaporators and air conditioners...." Therefore, we can conclude that the entity under classification is not 'auto air conditioning kit' but certain other items which would fall under 8419.00.

(d) The matter, therefore, is required to be remanded back to the original authority to arrive at a finding as to why the condensers, evaporators in this particular case should not be classified under the approved heading of 8419 for other capacity condensers, evaporators being manufactured and cleared by the same assessees.

Since no grounds for making the distinction are on record.

3. The orders of the lower authority are therefore, set side and the matter is remanded back to the original authority for de novo determination of the fact, i.e. whether 'auto air conditioning kit' is being cleared and if so why the classification should be different. The original authority should readjudicate the matter after

giving a hearing and since the matter is quite old one, this process should be completed as expeditiously as possible. The appellants will have freedom to submit such evidence, as they rely to establish what were the goods actually cleared.