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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-30-1983

Reported in : (1983)LC497DTri(Delhi)

Appellant : Murphy India Ltd.

Respondent : Collector of Customs

Judgement :

2. The appellants seek refund of countervailing duty paid on a consignment of bare speakers (woofers) of 10" diameter imported by them on 2-5-1975. This C.V.D. was collected from them under Item 37A of the Central Excise Tariff. The appellants' plea is that this item of the Tariff, as it then stood, covered gramophones and record players as well as their parts and accessories but it did not cover parts of such accessories, that parts of such accessories consequently fell under Item 68 C.E.T. and by virtue of a Customs exemption notification goods falling under Item 68 were totally exempt from payment of C.V. duty till 28-2-1979, that the subject speakers, though being multi-purpose speakers, were not an integral part of gramophones or record players because their size was too big for fitting into any gramophone or record player in the market, that the subject speakers had to be fitted only into a stereophonic speaker system, that such stereophonic speaker systems were optional accessories for gramophones and record players since gramophones and record players could be put to use even without an external speaker system, by being plugged into a radio, and that the bare speakers imported were only a part of the external speaker system, that is a

part of the accessory of gramophones and record players. They produced portions of the catalogue of M/s HOKUTO ONKYO CO. LTD. and M/s Murphy India Ltd. and also a write up by the appellants' R&D Manager to substantiate their plea. The Department's contention is that sound reproducing system, whether internal or external, is a part of gramophones and record players and the subject speakers being a component of such sound reproducing system become part of gramophones and record players and, therefore, classifiable under Item 37A CET. The Department disputes the appellants' claim that speakers are an accessory. According to the Department, the speakers are an essential part of gramophones and record players.

3. We have carefully considered the matter. We find force in the Department's contention that going by the criterion of normal use, the speaker system, 'being the sound reproducing system, is an essential part of gramophones and record players and not just an accessory. Even bare speakers can and do perform the function of sound reproduction by being placed in different corners of the room behind some sort of screen or wood panelling. No doubt, woofer speakers work along with tweeter speakers and sometimes even with mid-range speakers to give a rich hi-fi sound reproduction. But that does not mean that woofer speakers, by themselves, cease to be parts of sound reproducing system of gramophones and record players. We, therefore, hold that the subject speakers were correctly charged to countervailing duty as parts of gramophones and record players under Item 37A C.E.T. they were not exempt from such duty under notification No. 11/66-CE because this notification expressly excluded speakers and speaker systems from its scope.