Commr. of Central Excise, Vs. M/S Asea Brown Boveri Ltd.

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SooperKanoon Citation : sooperkanoon.com/24384

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jul-10-2001

Reported in : (2001)(138)ELT1110Tri(Mum.)bai

Appellant : Commr. of Central Excise,

Respondent : M/S Asea Brown Boveri Ltd.

Judgement :

1. The respondents manufactured 33 KV and 23 KV switchboards. The classification lists described the goods as follows: These goods were supplied by them against CT3 certificate describing the goods as "6.6 KV switchboard and 33 KV switchboard". Two show cause notices were issued; one was for recovery of duty on certain spares etc. not covered under CT3 certificate. The second show cause notice was on the ground that in CT3 certificate there is no mention of "indoor panel with circuit breaker" although this description occurred win the classification list. The Asst. Commissioner confirmed both he demands observing that the correct CT3s had not been produced. The Commissioner (Appeals) upheld a part of the demand holding that commissioning spares and earthing truck had been removed without producing CT3 certificate and set aside the other part of the demand holding that circuit breakers which were later supplied were actually covered under CT3 certificates.

2. On his vacating the lower order, the present appeal has been filed.

The sole claim made in the appeal memorandum is as under: "The CT3 certificate was issued only in respect of 33 KV switch board and 6.6 KV switch board. Whereas, the assessee had clared the goods viz. indoor panel on the circuit breaker for 33 KV switch board and circuit breaker for 6.6 KV switch board.

The CT3 certificate was issued only for Switch Boards and not for accessories (viz. Indoor Panel and Circuit Breaker.) 2. Hence, benefit of Notfn. No. 123/81 dt. 2.6.81 was not available to the assessee." 3. We have heard both the sides and have seen the documents. It appeared that the appellant Commissioner had not understood the facts.

The presumption is made that indoor panel and circuit breaker are accessories for switch board. This presumption is not correct. These two, in fact, constitute a switch board. The classification list we have extracted above also states the same. The appeal has been filed under a strong presumption of facts and is dismissed.