

Cc Vs. Numeric Power Systems Ltd. and

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

Decided On : May-29-2002

Reported in : (2002)(104)LC1045Tri(Chennai)

Judge : S Peeran, R K Jeet

Appellant : Cc

Respondent : Numeric Power Systems Ltd. and

Judgement :

1. The stay and appeal are taken up for consideration along with regular matter of the revenue in C/971/97 against M/s. Zener Controls (P) Ltd. In both these appeals revenue has challenged the correctness of the classification of the product Uninterrupted Power Supply System called as "UPSS". The appellant had claimed classification of the UPSS under chapter sub-heading 8504.40 of Customs Tariff Act. The Commissioner (Appeals) in both the matters upheld their contention for classification under sub-heading 8504.40 of CTA on the basis of the judgment rendered by the Larger Bench in the case of Luminous Electronics Pvt. Ltd. v. CCE, New Delhi as in the case of M/s Numeric Power System Ltd. CC v. Zener Controls (P) Ltd. the Commissioner (Appeals) likewise upheld the classification under chapter sub-heading 8504.40 of GET agreeing with a the importer that the UPSS is nothing else but a converter along with a switch and a battery and specifically covered under sub-heading 8504.40 of CTA. He has also noted that the importer's contention that UPS is nothing else but a converter to which a static switch is added so that alternate power supply can be obtained from

battery at the D.C. converter in case of mains failure. The D.C.converter acts in two ways. It converts AC to DC, and charges the batteries and then converts the DC to AC whenever mains failure takes place. He has also seen the technical write up and upheld their plea for classification and set aside the classification adopted by the lower authority under chapter sub-heading 85.43.

3. We have heard Ld. SDR Shri G.S. Menon and Shri N. Sundararajan, Consultant.

4. Ld. SDR submits that the Larger Bench judgment was taken up before the Apex Court and hence the revenue had filed this stay application and appeal. However, the Apex Court in the Case of J.K. Synthetics v.CC, Jaipur in Civil Appeal No. 9175/1995 has upheld the judgment of the Larger Bench rendered by 5 Members. He has nothing more to add in the matter.

5. Ld. Consultant Shri N. Sundararajan furnishes a copy of the Apex Court judgment confirming the Larger Bench judgment rendered in the case of J.K. Synthetics v. CC, Jaipur and also a copy of the Larger Bench judgment rendered in the case of Luminous Electronics Pvt. Ltd. v. CCE, New Delhi Final Order No. 148/2001-B dated 21.3.2001, 2001 (95) ECR 434 (T-LB) which has upheld the classification of the product under sub-heading 8504.40 of the Customs Tariff Act and rejecting the revenue plea for classification of 85.43 of CTA. He submits that the stay application and the appeal of the revenue are required to be rejected as the issue has been finally decided by the Apex Court.

6. We have carefully considered the submissions and perused the judgment of the Larger Bench rendered in the case of Luminous Electronics Pvt. Ltd. v. CCE, New Delhi by Final Order No. 148/2001-B dated 21.3.2001, 2001 (95) ECR 434 (T-LB) which confirms the classification of the UPSS under chapter sub-heading 8504.40 of the Customs Tariff Act. The said classification has been upheld by the Apex Court by confirming the Larger Bench judgment. In that view of the matter, there is no merit in the stay application and therefore the stay application and the appeals against both the parties are rejected respectfully following the judgments rendered by the Larger Bench and the Apex Court, finally deciding the classification of the matter.

