Commissioner of Cus. Vs. Bachmann Industries India Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-18-2002

Reported in : (2003)(151)ELT165TriDel

Judge : S Kang, B T K.K.

Appellant : Commissioner of Cus.

Respondent : Bachmann Industries India Ltd.

Judgement :
2. The Revenue filed this appeal against the Order-in-Appeal passed by the Commissioner (Appeals) whereby the goods imported by the respondents were held to be classifiable under Heading No. 8503 of Customs Tariff as parts of valve actuators.

3. The contention of the Revenue in this appeal is that the impugned order be set aside and the matter be sent for de novo adjudication on following grounds :- "The goods imported in this case were DDC module assemblies and UEC-3 module assemblies, the importer claimed the goods under CTH 8470.90 as parts of machines and mechanical appliances having individual function not specified or included elsewhere in Chapter 84. On detailed examination of goods the assessing group classified the goods under heading 8485.90 machinery parts not included elsewhere in chapter 84. The party claimed the classification of the goods under Heading 8542.12 or 8503. The Heading 8542.12 is not there in the first schedule of the Customs Tariff Act. However, CTH 8542.10 contains cards

incorporating as electronic Integrated Circuits which is altogether different thing. CTH 8503 covers parts suitable for use solely or principally with the machines of Heading 8501 or 8502.

Commissioner (Appeals) has decided the classification under CTH 8503 as parts of actuators of Heading 8501. The goods were examined in party's presence. After the detailed discussion the classification under heading 8485.90 as machinery parts was decided. Party paid differential duty under protest and cleared the goods. At appellate stage the party claimed that it is smart card under Heading 8542.10 or electrical parts under heading 8503. They presented catalogues and samples before the Commissioner (Appeals). The classification decided done by the Assistant Commissioner, Air Cargo is altogether different than the classification decided by Commissioner (Appeals).

The possibilities that the importers might have produced different catalogues before different authorities may not be ruled out." 4. The Commissioner (Appeals) in the impugned order after relying on the decision of the Tribunal in the case of M/s. Continental Profiles Ltd. v. CCE, New Delhi vide Final Order No. 553-554/2001-B, dated 18-12-2001 held that the valve actuators are classifiable under Heading 8501 of the Customs Tariff, therefore, the parts of the valve actuators are classifiable under Heading 8503 of the Tariff. The Commissioner (Appeals) also relied upon the catalogues produced by the appellant and held that the goods in question are meant to be fitted in their valve actuators. In the present appeal the Revenue had not produced any evidence to rebut the findings of the Commissioner (Appeals). The contention of the Revenue is only that the importer has claimed different classification at various stages before the adjudicating authority as well as before the Commissioner (Appeals). The Revenue in the present appeal is no where mentioned that the goods are classifiable under different heading other than as held by the Commissioner (Appeals).

5. As the Commissioner (Appeals) relied upon the decision of the Tribunal wherein it was held that the valve actuators are classifiable under Heading 8501 of the Customs Tariff. Therefore, we find no infirmity in the impugned order regarding classification as held by the Commissioner (Appeals) in respect of parts of valve

actuators under Heading 85.05 of Tariff. The appeal filed by the Revenue is rejected.