

Commissioner of Customs Vs. Coney Electronics P. Ltd.

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

Decided On : Oct-30-2002

Reported in : (2003)(160)ELT708Tri(Chennai)

Judge : S Peeran, R K Jeet

Appellant : Commissioner of Customs

Respondent : Coney Electronics P. Ltd.

Judgement :

1. The Revenue is aggrieved with the Order-in-Appeal C. Cus. No. C.Cus. 1138/97, dt. 15-10-1997, by which the Commissioner (Appeals) has granted the benefit of Notification No. 91/89 to Tape Deck Mechanism with motor which were cleared under Heading 85.29. He has taken the view in the light of the definition Tape Deck Mechanism given in the Chambers, Science and Technology Dictionary which clarifies that tape deck is a platform incorporating essentials for magnetic recording (motors, spooling, recording and erasing heads) for adding to amplifier, microphone, loudspeaker, to form a complete recording and reproducing equipment (tape recorder). He has also noted that the definition given in McGraw-Hill Dictionary of Scientific and Technical Terms (Third Edition) which defines it as a tape-recording mechanism that is mounted on a motor board, including the tape transport, electronics and controls, but without power amplifier or loudspeaker.

He has noted the Appraising Departmental Circular No. 1/87 which clarifies that in an Audio TDM control mechanism are all mechanical/eltro mechanism one also

form part of an audio TDM. Therefore, he held that the Tape deck mechanism incorporating a motor would be squarely covered by Notification and allowed the benefit.

2. Revenue's contention in this appeal is that Motor is not part of 'Tape Deck Mechanism' and the benefit of Notification No. 91/89 which is available only to Tape Mechanism cannot be extended to additional item of motor.

3. We have heard Shri C. Mani, Id. DR for the Revenue and Shri M.S.Kumaraswamy, Id. Consultant for the Respondents.

4. We have perused the orders and also the Appraising Department Circular No. 1/87 and the definition of the term 'Tape Deck Mechanism' and 'Tape Recorder' which has been seen by the Commissioner as noted in the order. We find that the Tape Deck Mechanism is mounted on the Tape deck along with a motor and it is a part of the said system. Therefore, there is no infirmity in the impugned order and hence we do not find any merit in this Revenue appeal and the same is rejected. Ordered accordingly.

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