

Electronics Trade and Tech. Dev. Vs. Collr. of Cus.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-07-1987

Reported in : (1989)(42)ELT454TriDel

Appellant : Electronics Trade and Tech. Dev.

Respondent : Collr. of Cus.

Judgement :

1. The importers, M/s. Electronics Trade and Technology Development Corporation say that the machines DZM-180 mosaic character printers are computer sub-systems and classifiable under Heading 84.51/55(2) of the Customs Tariff, 1975, at 40% ad valorem according to Notification 272/76-Cus.

2. The learned counsel for the importers argued that the reason for the action of the lower authorities was that they held that the machine, had application in telecommunication. The Assistant Collector also appears to have confused the DZM-180 with the DZM-180 RO. Their machine is not RO and it has no application in telecommunication. He referred to their catalogue for the mosaic-type character printer. He drew special attention to page 17 and the paragraph runs thus: The CI signal should be maintained by the co-operating external equipment until the printer sends the PEC signal (receipt confirmation) which means that the character code has been entered into the register on the Logic Board. The external equipment may send a new character within 5 ms. from the moment it receives the PEC signal.

According to the learned counsel, this shows that this external equipment is located only 5 metres from the main unit and this would not qualify the operation as telecommunication. He then referred to the correspondence on the subject and the certificate given by the Senior Scientific Officer of the Department of Electronics of the Government of India certifying that mosaic character printer type DZM-180 of Polish make and key to tape unit type EC-9002 of Bulgarian make imported by M/s. Electronics Trade and Technology Development Corporation should warrant customs duty at the rate of 40% as permissible for computer items. He next read a letter dated 2nd November, 1976 written by the Assistant Collector of Customs, New Delhi, to the Senior Scientific Officer. This letter refers to character printer DZM-180 and sought the opinion of the Scientific Officer whether the goods were part of computer system; whether it has use and application as data transmission equipment independent of its use as a computer output; and whether it is a machine for transcribing data onto data media in coded form. Leaflets, catalogues, photo copies of instructions were enclosed with the letter. By a letter dated the next day 3-11-1976 the Scientific Officer replied that the printer type DZM-180 qualified to be regarded as a computer peripheral. He also said that with modifications like addition of keyboard, data transmission, reception circuiting, the printer could be used for data transmission between the computer and the DZM-180 mosaic character printer. These options were not available in the imported printer under consideration.

The Scientific Officer also told the Assistant Collector that the DZM-180 printer did not fall into the category of machines for transcribing data onto data media in coded form in terms of para 3,3(i) and 3(ii) of his (Assistant Collector's) letter.

3. The learned counsel referred to the Brussels Trade Nomenclature definitions relevant to computer sub-systems and said that a reading of these definitions would satisfy anyone that the machine they have imported is connectable to the Central processing unit, is specifically designed as part of such a system and that the connections are made by cables. Their machine in all respects, therefore, qualified as a computer subsystem as defined in the BTN.4. He said the department seems to have misunderstood the INTRODUCTION in their catalogue which shows that among the applications of the DZM-180 one was a printing

device for telecommunication applications etc. But to disprove this, the counsel said that it can be seen from page 17 that the small distance of only 5 metres of the location of the equipment would disqualify it as a telecommunication printing device.

5. In any case, the learned counsel said that one should go by predominant use and the predominant use of this machine is as a computer sub-system and not as telecommunication printing device. The predominant use must govern assessment and he quoted 1981 ELT page 22 re: Alkali Chemicals in support.

6. He reiterated that he heavily relied on the certificate obtained by the Assistant Collector which proves their case without any further doubts. He then quoted 1984 (3) ETR 67 re : Hico Products.

7. The learned counsel for the department read from the McGraw-Hill Encyclopaedia on Electronics and Computers page 203 relating to data printers. Dealing with data processing systems the Encyclopaedia has these sentences on printers:- Electromechanical printing devices are the primary means for making information process by computers available to people. However, display units are overtaking printers in this field. Computer printers can be broadly classified as either serial or line printers and as either impact or non-impact printers. A serial unit prints one character at a time in the manner of a conventional typewriter, whereas a line printer prints a line, usually consisting of 80 to 132 characters, at the same time. An impact printer uses direct mechanical force to produce character images on the paper, whereas non-impact printers utilise various electrical or mechanical processes to form the characters.

8. The learned SDR read from the importer's literature and said that this paper suggests that DZM-180 can act not only as a telecommunication printing device but also as a long distance typesetting machine.

9. We need not go into the mistakes made by the Assistant Collector between DZM-180 and DZM-180 RO. The machine imported appears to be DZM-180 and we shall discuss this machine. There is no dispute that DZM-180 is a printer; the dispute is whether it is only a printer, or printing device used or capable of being

used in telecommunication transmission printing.

10. The letter written by the Senior Scientific Officer dated 3-11-1976 in reply to the letter of 2-11-1976 from the Assistant Collector of Central Excise does not answer the question whether it has any application in telecommunication printing use. The Assistant Collector's letter itself does not ask the question in a form that would have been useful to this enquiry. He wanted to know only whether the DZM-180 had use and application as data transmission equipment independent of its use as a computer output. The Scientific Officer naturally did not specifically treat the question of whether the machine has any telecommunication application.

The DZM-180 is a mosaic-character type printer with a printing speed of 180 characters per second. Its speed, simple design and the possibility of various versions make the printer particularly suitable for the application as an electronic digital computer output or a telecommunication printing device. The DZM-180 printer is particularly suitable for various applications in the field of informatics and teleinformatics. Its reliable parameters, the possibility to couple it with a keyboard, and its low price suggest that the printer can be used in cases where a line printer is too expensive and an electric typewriter (input - output) is too slow.

12. The possibility of coupling it to a keyboard indicates that it does not need a keyboard for its operation. Evidently, therefore, a hook-up in a telecommunication system when the printer receives input signals from a remote station will activate the printer to print its output.

This, in fact, is a well known characteristic of such printers and the DZM is no exception. Furthermore, the paragraph speaks of various versions of the DZM-180: one version is the DZM-180 RO which is admitted to have telecommunication application through computer. The Technical Description literature of the Paper Transport Mechanism of the DZM-180 printer presented by the importers themselves shows at page 43 the following :- The paper transport mechanism has been designed to meet the requirements of as wide application as possible, and is intended for operation with such devices as, for instance: If one of the applications is with teletype devices, there can be no doubt that DZ&I-180 has applications in telecommunication and that it is capable of being linked and used as a printing

device in telecommunication. Teleinformatics is also mentioned under INTRODUCTION as a field in which the machine has application and teleinformatics is the transmission of information over distances, and indicates that DZM-180 can receive input signals from a remote centre and transcribe it into graphic output.

13. The learned counsel claimed that according to the printed literature, the printing device was only 5 metres away from the computer. But what the paragraph refers to is not the distance of the printing device, but the speed with which a new signal may be sent after the moment of the confirmation of receipt of the character code.

The speed is 5 ms. i.e. 5 mico seconds.

14. It may be true, as argued by the learned counsel for the importers, that use hi telecommunication device is rare and that the preponderant use of the machine is as a computer sub-system; and that possibly is a fact, but we do not need to go into it. It is enough for the present purpose that the machine has telecommunication application. That being the case, it is not possible to say that the assessment of the lower authorities was incorrect.

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