Commissioner of Customs Vs. Mx Software Services Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-08-2003

Reported in : (2004)(166)ELT387TriDel

Judge : A T V.K., P Bajaj

Appellant : Commissioner of Customs

Respondent : Mx Software Services Ltd.

Judgement :

1. This is an appeal, preferred by the revenue against the impugned order-in-appeal, vide which the commissioner (Appeals) has reversed the order-in-original regarding classification of the goods, in question (Printer-cum FAX) by classifying the same under heading 8471.60.

2. Learned S.D.R. has contended that the machine, in question, is classifiable under heading 8571.21 as adjudicated by the adjudicating authority and that the Commissioner (Appeals) has wrongly rejected that classification. He has relied upon Rule 3 of the Interpretative Rules read with Note 3 to Section XVI.3. On the other hand, the learned Counsel has reiterated the correctness of the impugned order.

5. We find that the respondents had imported printer-cum-FAX machine having interface with CPU. It can print the matter directly from an ADP or can send the Fax message from ADP. The plea of the revenue that it is classifiable under

heading 8517.21 on the ground that the principal function of the machine is facsimile, communicating and printing of text on graphics using telephone lines, cannot be accepted. The Commissioner (Appeals) has recorded specific findings that the machines combines a fax and printer and the printer has the principal function, it can be interfaced with an ADP. we do not find sufficient ground to disagree with these findings. As such the machine, in question, is apparently classifiable under heading 8471.60 of the CETA in view of the Chapter note 5(B) (b) read with note 5 (D) of Chapter 84. As per chapter note 5 (D), a printer in all cases is to be classified under Heading 84.71, once it meets the conditions of notes 5 (B) (b) and 5 (B) (c). The machine, in question in our view, satisfies all those conditions detailed in these notes, as it has an interface with an A.D.P. and is capable to accept or deliver data. The Commissioner (Appeals), in our view, has rightly classified the printer-cum-FAX machine, in question, under heading 8471.60.

6. The contention of the Ld. S.D.R. that the primary function of the machine is that of Fax machine, and by virtute of note 3 to Section XVI read with Rule 3 (a) and 3(b) of the interpretative Rules, merits classification under heading 8517.21, as held by the adjudicating authority, cannot be accepted in the light of discussion made above.

7. In our view, the impugned order passed by the (Appeals) is perfectly valid and needs no interterence and as such the same is upheld. The appeal, filed by the revenue, is dismissed.