Venmitra Systems Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Dec-08-2003

Reported in : (2004)(163)ELT505Tri(Mum.)bai

Judge : S T Gowri, K Kumar

Appellant : Venmitra Systems

Respondent : Commissioner of Central Excise

Judgement :

1. The question for consideration in this appeal is the classification of populated printed circuit board manufactured by the appellant. In the classification list that it filed, it claimed such boards to be classifiable as parts of machinery of which they form part in heading 8431. This heading covers parts of lifts. Notice issued to the manufacturer proposed to classify the goods in heading 8542.00. This hading covers integrated circuit and microassemblies. After considering the cause shown by the manufacturer, the Asst. Commissioner accepted its contention that the printed circuit boards would be classifiable as parts of the machine into which they were designed to be fitted. The department appealed this order. The Commissioner (Appeals) concluded on his view that the populated printed board would be a microassemblies ordered classification of the goods under heading 8542.00. Hence this appeal.

2. The appellant is absent and unrepresented. We have read the memorandum of appeal and other papers and heard the departmental representative.

3. Heading 8542 is for electrical integrated circuits and microassemblies. The Explanatory Notes in the Harmonised System of Nomenclature to heading 85.42 which is identically worded explain about that microassemblies as follows.

Microassemblies are made from discrete, active or both active and passive components which are combined and interconnected.

Discrete components are indivisible and are the basic electronic construction components in a system. They may have a single active electrical function (semiconductor devices defined by Note 5 (A) to Chapter 85) or a single passive electrical function (resistors, capacitors, interconnections, etc.).

However, components consisting of several electric circuit elements and having multiple electrical functions, such as integrated circuits, are not considered as discrete components.

(1) Moulded modules in which the components are encased in a block (cube, parallelepiped, hemisphere, etc.) generally of plastics.

(2) Micromodules made by superimposing and interconnecting several rectangular (including square) substrates, each serving as a carrier for one or more components.

The heading excludes film circuits consisting solely of passive elements (heading 85.34).

Except for the combinations (to all intents and purposes indivisible) referred to in Part (I), subparagraph (2) above concerning hybrid integrated circuits, the heading also excludes assemblies formed by mounting one or more discrete components on a support formed, for example, by a printed circuit and assemblies formed by adding to an electronic microcircuit either one or more other microcircuits of the same or of different types or one or more other devices, such as diodes, transformers, resistors. Such assemblies are classified as follows : (a) Assemblies which constitute a complete machine or appliance (or one classified as complete), in the heading appropriate to the machine or appliance.

(b) Other assemblies, in accordance with the provisions for the classification of machine parts (Notes 2 (b) and 2 (c) to Section XVI, in particular).

For example, an assembly consisting of a number of electronic microcircuits mounted on an appropriate shaped carrier and designed as a part of a digital data processing machine storage falls in heading 84.73." 4. It is clear from these notes that microassemblies evidently so named because they are an assembly of very tiny parts are normally made in the manners that is specified in the column. Populated printed circuit board do not specify this criteria and cannot therefore be considered to be microassemblies. The Commissioner (Appeals) does not furnish any reason for his conclusion that the goods in question are microassemblies. Populated printed circuit board is therefore excluded from classification in heading 85.42, This exclusion, specified in the notes to heading in 8542 is mirrored in the notes to heading 85.34 which is for printed circuits. The notes to this headings while explaining what printed circuits are and how thin-film and thick-film circuits are formed also say that such circuits on which mechanical element or electrical components are mounted and connected are not regarded as printed circuit of this heading. They generally fall to be classified in accordance with Note 2 to XVI or Note 2 to chapter 90 as the case may be. Note 2 to chapter XVI refers to classification of parts as does Note 2 to chapter 90. Reading in conjunction the notes to Headings 85.42 and 85.34 it will follow that printed circuits on which mechanical elements or electrical components have been mounted or connected would fall for classification as parts of machine in use which they are designed to be fitted and used. The description of the goods as "populated printed circuit board" in the classification list filed by the appellant clearly indicate that they contain in addition to the circuit that printed on it, discrete electrical or mechanical components. They therefore would quality for classification as parts as the Asst. Commissioner has ordered.