Methodex Systems Ltd. Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-01-2004

Reported in : (2004)(173)ELT299TriDel

Judge : A T V.K., P Bajaj

Appellant : Methodex Systems Ltd.

Respondent : Commissioner of Central Excise

Judgement :

1. The issue involved, in this appeal filed by M/s. Methodex Systems Ltd., is whether the goods manufactured by them are classifiable under Heading No. 94.03 of the Schedule to the Central Excise Tariff Act as confirmed by the Commissioner (Appeals) or under Heading No. 83.04 as claimed by them.

2.1 Shri B.L. Narasimhan, learned Advocate, mentioned that the Appellants manufacture the following goods :- 2.2 The learned Advocate submitted that the goods manufactured by the Appellants are sold mainly to banks for specialized purposes and as organizational tools; that the Visible Recorder is used as a specimen signature holder; that the Fire Resistant Cabinets which weigh around 250 to 850 kgs. are specially armoured filing cabinets used to provide protection from fire; that their goods are specifically covered under Heading 83.04 which reads as under :- "Filing cabinets, card-index cabinets, Paper rests, paper trays, Pen trays, office-stamp stand and similar office or desk equipment, of base metal, other than office furniture of Heading No. 94.03." 2.3 He mentioned that Heading

94.03 is a residual entry which covers "Other Furniture and Parts thereof" that the products in question are not furniture as these are not designed to put on the floor; that the HSN Explanatory Notes of Heading 83.04 specifically cover the impugned goods which reads as under :- "This Heading covers filing cabinets, card-index cabinets, sorting boxes and similar office equipment used for storage, filing or sorting of correspondence, index cards or other papers, provided the equipment is not designed to stand on the floor or is not otherwise covered by Note 2 to Chapter 94 (heading 94.03)..." 2.4 He contended that as per the Explanatory Notes of H.S.N., "Office equipment' are classifiable under Heading 83.04 subject to Note 2 to Chapter 94; that the General Explanatory Note provide that the articles of 94.03 are to be classified under Heading 94.03 only if they are designed to be placed on the ground; that the equipments manufactured by the Appellants are not designed to be kept on ground; that these can be used conveniently only when they are kept on a suitable stand, which raises their height to a proper operational level.

3.1 The learned Advocate, further, submitted that for an article to be called furniture it has to satisfy the definition given in HSN Explanatory Notes of Chapter 90 which reads as under : (A) Any "movable" articles (not included under other more specific headings of the Nomenclature), which have the essential characteristic that they are constructed for placing on the floor or ground, and which are used, mainly with a utilitarian purpose, to equip private dwellings, hotels, theatres, cinemas, offices, churches, schools, cafes, restaurants, laboratories, hospitals, dentists' surgeries, etc., or ships, aircrafts, railway coaches, motor vehicles, caravan-trailers or similar means of transport. (It should be noted that, for the purposes of this Chapter, articles are considered to be "movable" furniture even if they are designed for bolting, etc., to the floor, e.g., chairs for use on ships). Similar articles (seats, chairs, etc.) for use in gardens, squares, promenades, etc., are also included in this category.

(i) Cupboards, bookcases, other shelved furniture and unit furniture, designed to be hung, to be fixed to the wall or to stand one on the other or side by side, for holding various objects or articles (books, crockery, kitchen utensils, glassware, linen, medicaments, toilet articles, radio or television receivers, ornaments, etc.) and separately presented elements of unit furniture.

3.2 He mentioned that the goods in question are not office furniture as defined in HSN Explanatory Notes since they are not designed to be kept on the ground; that this is for the reason that if the goods are placed on the ground, the person sitting on a chair cannot operate the same comfortably and would defy ergonomic principles. He relied upon the decision in the case of Tata Engineering & Locomotive Co. Ltd. v. CCE, 1988 (37) E.L.T. 432 (T) wherein it has been held that steel cabinets, steel tables, benches racks and tool holders are not meant for use or decoration in dwelling houses, place of business or private buildings but specially designed for use in works and heavier in weight, made of thicker metal are not qualified to be classified as furniture. He also relied upon the decision in the case of CCE, Bombay-I v. Steelage Industries Ltd., 1997 (95) E.L.T. 83 (T) wherein it has been held by the Tribunal that "Fire Resisting Filing cabinet is classifiable under Heading 83.04".

3.3 He also contended that the goods in question are not known as furniture in common parlance and are in fact bought and sold as office equipments; that the Fire Filing Resistant cabinets and Card Index cabinets are used in banks, industrial and government and are used for storing and retrieving of information; that these goods are used as office equipment and are not bought and sold as furniture; that in respect of similar goods manufactured by other manufacturers, the Department has held that the goods are classifiable under Heading 83.04 of the Tariff.

3.4 Finally, he submitted that no penalty is imposable in the matter of classification; that they have been filing classification list since long; that if the goods in question are held to be classifiable under Heading 94.03, the price should be treated as cum duty price in terms of decision of the Larger Bench of the Tribunal in the case of Srichakra Tyres Ltd. v. CCE, [1999 (108) E.L.T. 361 (T-LB) = 1999 (32) RLT 1 (CEGAT)]. Reliance has also been placed on the decision in the case of CCE, Delhi v. Maruti Udyog Ltd. [2002 (141) E.L.T. 3 (S.C.) = 2002 (49) RLT 1 (S.C.)] 4.1 Countering the arguments Shri V. Valte, learned SDR, submitted that the Adjudicating Authority in the Order-in-Original No. 137-149/99, dated 28-10-99 has given his findings that all goods, except SI. No. 2 in Paragraph 2.1 are designed to be placed on ground and as such are classifiable under

Heading 94.03 of the Tariff; that the Commissioner (Appeals) has also recorded his findings in the impugned order as under :- "On going through the catalogue of the products annexed by the Appellants, I find that their product range includes four drawers fire resistant filing cabinets the size of which would not allow it to be placed over table top for operation. Even in respect of the VRC (referred by them as visible recorder in the catalogue attached to the Appeal Memo as Annexure 'J') I find that the same has been shown to be placed on floor on its stand. In these circumstances, I am unable to accept the plea of the Appellants that the products manufactured by them were not designed to be placed on the floor."Elefur Industries (India) P. Ltd. v. CCE - 1993 (63) E.L.T. 108 (T) wherein it has been held by the Tribunal that though filing cabinets are specifically mentioned in Heading 83.04, "a reading of the heading as a whole shows that filing cabinet finds mention therein along with other items such as paper trays, pen trays, and "similar office or desk equipment of base metal, other than office furniture of Heading 94.03".

Therefore, filing cabinet of that heading should be in the nature of office or desk equipment and should be other than office furniture of Heading 94.03. It is evident from Chapter Note 2 of Chapter 94 that the furniture under Heading 94.03 should be such as are designed to be placed on the ground/floor which again will not be those of Heading 83.04 which, as has been seen, office or desk equipment. The catalogue of filing cabinets, in question, also showed that these are designed to be placed on the ground, and hence, are not desk or office equipment....... correct classification is under 04.03...." The learned SDR contended that the ratio of this decision is squarely applicable to the present case. Reliance has also been placed on the decision in the case of CCE v. Steelage Industries Ltd. -1990 (47) E.L.T. 78 wherein Fire Brand Fire Protection Cabinet and Computer Recorder Cabinet has been classified under Item No. 40 of the erstwhile Central Excise Tariff as steel furniture. He has also relied upon the decision in the case of CCE, Bombay v. Steelage Industries Ltd. - 1985 (21) E.L.T. 204 wherein fire safe record cabinet was classified under Item No. 40 of the old Tariff and submitted that the said decision has been confirmed by the Supreme Court as reported in 1996 (86) E.L.T. A162. In respect of visible recorder cabinet he mentioned that the stand on which the same is placed is nothing but an extension of visible recorder cabinet and it is also a furniture as it is designed to stand on the floor.

5. We have considered the submissions of both the sides. Heading 83.04 applies to filing cabinets, card index cabinet, paper trays, paper rest, pen trays, office stamp stand, and similar office or desk equipments of base metal other than furniture of Heading 94.03. It is apparent from the heading itself that the heading covers the specified items mentioned therein and similar office or desk equipment of base metal subject to the condition that these are not office furniture of Heading 94.03. Explanatory Note of HSN clearly mentions that Heading 83.04 covers office equipment provided the equipment is not designed to stand on the floor or is not otherwise covered by Note 2 to Chapter 94 (Heading 94.03). Heading 94.03 applies to "Other Furniture and parts thereof" i.e. furniture which is not covered by Heading 94.01 and 94.02. Note 2 to Chapter 94 of the Tariff mentions that the articles referred to in Heading Nos. 94.01 to 94.03 are to be classified in those headings only if they are designed for placing on the floor or ground. As emphasized by the learned SDR the Commissioner (Appeals) has given his specific finding that the products are such which cannot be placed over table tops for operation and these are designed to be placed on ground/floor. In respect of visible recorder the Commissioner (Appeals) has observed that the same has been placed on a stand as per their catalogue which means that the same is also designed to be placed on floor/ground. As far as products at SI. Nos. 3 to 7 are concerned, the Appellants have not succeeded in establishing the fact that these are not designed for placing on the floor or ground. Once these goods are designed for placing on the floor or ground and these are used in the office they will be appropriately classifiable under Heading 94.03 as these are movable articles having essential characteristics for placing on the floor or ground and are used with a utilitarian purpose to equip offices and as such satisfy the definition of furniture given in Explanatory Notes of HSN in Chapter 94. The Tribunal also in the case of Elefur Industries (supra) has classified the filing cabinets, after observing that filing cabinets are specifically mentioned in Heading 83.04, under Heading 94.03 as the same were designed to be placed on the ground/floor. The Tribunal in that decision has also noted that the Heading 83.04 excludes the office furniture of Heading 94.03. The learned Advocate for the Appellants has relied upon the decision in the case of Steelage Industries Ltd., 1997 (95) E.L.T. 83.

In the said decision the dispute was regarding classification of Fire Resisting Filing cabinet whether under Heading 83.04 or 83.03. The Tribunal has classified it under Heading 83.04 relying the earlier decision in the case of CCE v. Steelage Industries Ltd. - 1985 (21) E.L.T. 204. In the decision reported in 21 E.L.T., Tribunal has clearly held the fire safe recorder as steel furniture under old Tariff Item 40 and not as a safe under Item No. 48. In the subsequent decision of Steelage reported in 95 E.L.T. rival Headings were not 83.04 and 94.03.

The learned SDR has also relied upon the decision in the case of CCE, Madras v. Indian Drawing and Equipment Industries - 1999 (113) E.L.T.454 (Tribunal) wherein also filing cabinet, and plan filing cabinet were held to be office furniture classifiable under Heading 94.03 by virtue of Note 2 to Chapter 94 and not under Heading 83.04. Thus following the ratio of these decisions we hold that the product at SI.Nos. 3 to 7 mentioned in Para 2.1 above are classifiable under Heading 94.03 as office furniture.

6. Visible Recorder cabinets and metal holders are classifiable under Heading 83.04 as the same are not designed for placing on the ground or floor. The Commissioner (Appeals) himself has observed that visible recorder has been placed on the stand which goes to show that it is not designed for placing on the ground or floor. We agree with the submission of the learned Advocate that the price should be treated as cum duty price and the assessable value has to be determined after deducting the statutory deductions in terms of the decision of the Larger Bench of the Tribunal in the case of Srichakra Tyres. The learned Advocate has submitted that as they have been filing the classification list claiming classification of the impugned product under Heading 83.04 no penalty is imposable. We find force in the submissions as the claiming of particular heading does not warrant imposition of penalty. We, therefore, set aside the penalty imposed on the Appellants. The appeal is disposed of in the above terms.