

**Cce Vs. Video Electronics Ltd.**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Jun-03-2004

**Reported in :** (2004)(116)LC184Tri(Delhi)

**Judge :** S Kang, a T V.K.

**Appellant :** Cce

**Respondent :** Video Electronics Ltd.

**Judgement :**

1. In these two appeals filed by Revenue, the issue involved is whether the benefit of Notification No. 87/89-CE d (T)ated 1.3.1889 is available to the Television sets manufactured by both the respondents.

2. Both the respondents M/s. Video Electronics Ltd. and M/s. Video on TV Manufacturer Pvt. Ltd. manufacture 'Crown' brand coloured Television sets with in built remote control facility; that Notification No.87/89-CE dated 1.3.1989 provides a concessional rate of duty Rs. 225C per set in respect of television sets without remote control facility; that the rate of duty in respect of TV sets with remote control facility is Rs. 2500/-. The Additional Commissioner, under Order-in-Original dated 53/2000 dated 31.10.2000, confirmed the demand of duty against both the respondents besides imposing penalties and confiscated four coloured TVs sets seized from the premises of M/s.

Video Electronics Ltd. and gave an option to redeem the goods on payment of redemption fine of Rs. 10,000/- holding that the TV sets are having remote control facility; that however, on appeal, the Commissioner (Appeals) under two different orders-in-Appeal has set aside the impugned orders holding that the TV sets are without the facility of remote control when cleared from the factory as handset was not clear along with the TV sets. Learned Senior Departmental Representative, further, submitted that the TV sets manufactured and cleared by the respondents are having built-in remote control facility; that some of the buyers of these TV sets were found to have hand picked remote unit from the dealers and for using the same as TV sets had inbuilt control signal receiving facility; that Shri Y. N. Bhagar, Production Manager of M/s. Video Electronics Ltd. has stated that circuit of coloured TV sets were received from NEC and photodiodes and IC 701 were imported; that they had not made any change in the original NEC circuits; that the photodiodes and IC 701 meant for receiving remote control signal were used in coloured televisions irrespective of the fact where remote hand set had been supplied with the set or not. This fact has also been corroborated by Shri Anil Gupta, Production Engineer of Video Electronics Ltd. as he had confirmed that in all the sets, remote receiver was inbuilt; that the statement of customers has also been recorded wherein it has been stated that handset remote control has been purchased along with Television; that as the Notification prescribes the rate of duty on the basis of remote control facility and as in the impugned goods admittedly remote control facility is present, the high rate of duty will be chargeable at the rate of 2500 per set.

3. Countering the arguments, Shri Ram Pal Singh, learned Consultant submitted that the television sets are being cleared from the factory without hand set; that Hand sets are cleared by the respondents separately under a different invoices; that the Department of Electronics under letter dated 10.8.1993 addressed to M/s. Television and Components Ltd. has opined that a Coloured Television "is said to be classified with remote control facility' provided it is supplied with a hand held unit. Without the hand held unit, a CTV cannot receive a signal from outside and operate. It does not become a TV set with remote-control facility and liable for higher rate of excisable duty unless sold along with a hand held remote control.

Merely by having a provision in CTV circuit to receive signal from the hand held unit, does not mean a set having remote control facility." Learned Consultant also relied upon the decision in the case of Television and Components Ltd. v. CCE, Ahmedabad wherein the Tribunal has held, after referring to the clarification given by the Department of Electronics, that the TV sets without any hand operated command device cannot be considered as TV sets with remote control facility.

4. He contended that this decision in the case of Television and Components squarely applies to the present Appellants and following the same Revenue's Appeal should be rejected.

5. We have considered the submissions of both the sides. It has not been denied by the learned Consultant that both the respondents are manufacturing TV sets which have build in remote control facility. It is also not denied by the learned Consultant that the respondents are clearing the hand set for the purpose of remote control separately. We also observe that the Department of Electronics has also mentioned in the said letter dated 10.8.1993; that the remote control facility is tuned to certain specific frequency. It cannot receive remote control signal from any other hand held unit other than the specified one. The remote control sets of different manufacturers will have different frequency." It is thus apparent that a particular hand set will only be fitted with a particular Television set. The respondents are manufacturing hand held units which will be usable only with Television sets manufactured by them and have adopted the practice of clearing hand held units separately. The Revenue has brought evidence on record that the customers are purchasing both TV sets and hand held unit together. All these facts lead to a conclusion that the TV sets manufactured by the respondents are to be treated as TV sets with remote control facility. Decision in the case of Television & Components is not applicable to the facts of the present matters as there is no mention that they were also clearing the hand held sets separately. Accordingly, we set aside the impugned order and allow both the appeals filed by the Revenue.