Uniword Telecom Ltd. Vs. Cce

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SooperKanoon Citation : sooperkanoon.com/36499

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-13-2004

Reported in : (2004)(117)LC465Tri(Delhi)

Judge : S Kang, Vice, A T V.K.

Appellant : Uniword Telecom Ltd.

Respondent : Cce

Judgement :
1. Appellants filed this Miscellaneous Application for extension of stay. As we are taking up the appeal, therefore, there is no need to pass any order in respect of miscellaneous application 2. Appellants filed this appeal against the Order-in-Appeal passed by the Commissioner (Appeals) whereby the Commissioner (Appeals) held that call charge indicators (STD/PCO monitor) are classifiable under heading 8470 of Central Excise Tariff.

3. The contention of the appellants is that in this case the dispute in respect of classification is for the period 1.12.1997 to 25.5.1998 and during this period the Board issued a Circular dated 24.1.1994 to the effect that call charge indicators are classifiable under heading 9029.00 of Central Excise Tariff. This Circular was withdrawn by another Circular dated 5.4.1999 whereby it was clarified that call charge indicators are under heading 84.70 of Central Excise Tariff. The contention of the appellant is that during the period in dispute as per the Board's Circular dated 24.9.1996 the call charge indicators are classifiable under heading 9029 of

CET and this classification is specifically claimed before the Commissioner (Appeals). The appellants also relied upon the decision of the Tribunal in the case of Silver Line Telecom (P) Ltd. v. CCE, Faridabad 2003 (58) RLT 979 : 2003 (110) ECR 720 (T).

4. The contention of the Revenue is that the heading 84.70 covers calculating machines and displaying machines with calculating functions and these call charge indicators are covered under this heading and therefore, there is no infirmity in the impugned order.

5. We find that dispute in this case is regarding the classification of call charge indicator (STD/PCO monitor) during the period 1.12.1997 to 25.5.1998. Regarding classification of call charge indicator, Board issued a Circular dated 24.1.1994 whereby it was clarified that call charge indicators are classifiable under heading 90.29 of CETA.Thereafter, the Board again issued another Circular dated 5.4.1999 whereby it was clarified that the call charge indicators are classifiable under heading 84.70 of the Central Excise Tariff Act.

Revenue is not disputing that during the period in dispute as par circular the call charge indicators are classifiable under heading 9029 of the CETA. The Tribunal in the case relied upon by the appellant held that as per the Board's Circular dated 24.1.1994, call charge indicators are classifiable under heading 9029.00 of the Central Excise Tariff Act and the Circular issued by the Board is binding by the departmental authorities.

6. In view of the above Board Circular and in view of the decision of the Tribunal, the impugned order is set aside and the appeal is allowed.