

The Commissioner of Central Vs. Impressive Computer Systems Pvt.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-29-2004

Reported in : (2005)(180)ELT104Tri(Mum.)bai

Judge : A Wadhwa, M T K.D.

Appellant : The Commissioner of Central

Respondent : impressive Computer Systems Pvt.

Judgement :

1. This appeal is filed by the revenue against the order-in-appeal passed by the Commissioner (Appeals). The dispute relates to classification of "Polaroid Digital Imaging Systems", consisting of PRO palette 8000, HR 6000 (film recorder), Sprintsan 35 scanner and camera back for PPS. The respondents claimed the assessment under Customs tariff heading No. 8471.50 as automatic data processing system, however the assessing authority held (SIC) the said goods as correctly classifiable under tariff heading No. 9006.53 which is applicable to cameras. The reason for fixing the classification under heading No.9006.53 was that, the system performs a more specific function of digital imaging and producing appliances which adapts any computer with SCSI interface. Composite machines are to be classified according to their function. Photography is the main function and not the data processing although the system works in conjunction with ADP.(Automatic Data Processing) The assessment order does mention that it is not a conventional camera but it functions like camera while operating to take image and reproduce it on 35mm film instantly.

2. Notwithstanding the above findings of the Assistant Commissioner, the Commissioner (Appeals) held that, the device is more than a camera.

Camera as defined in H.S., explanatory notes is a box holding a film and containing a shutter. In the realm of digital photography, a digital camera is similar to a conventional camera. Only difference being it contains CCD in place of a film. Further going by trade parlance a digital camera is different from the imported goods. On seeing the catalogues of digital camera, the Commissioner (Appeals) noted that, the imported goods are different. Hence, he concluded that, the imported goods are not a camera but a computer, and accordingly he set aside the order of the Assistant Commissioner. Revenue's appeal challenges the findings of the Commissioner (Appeals).

3. We have heard the DR. The respondents vide their letter dated 28/04/2004 had sought adjournment of the hearing fixed on 28/04/2004 on the ground that they want to appoint an Advocate Neither advocate nor the respondents are present, when the matter was called.

4. In the revenue's appeal, it has been pleaded that, the imported goods are described as Polaroid Digital Imaging System PRO Palette 8000, HR 6000 (film recorder) Sprintsan 35 scanners, 6x7 Camera Back for PP8.

5. It is further stated that the goods were examined and were found with a camera and also HR 6000 with additional camera. On scrutiny of catalogue/literature produced and that found in packages it was revealed that the system produces a presentation slide or photographic image with extremely accurate shading, smooth ramped background, vivid colours, sharp text and bright graphics.

6. On careful consideration of the ground in appeal and on perusing the literature, we are of the view that, the imported goods are in the nature of photographic cameras having certain advance features. Though it uses the automatic data processing machine, the data processing component is only to enhance and refine the main function of production of a photographic image. Hence the entire function is directed towards capturing a photographic image of the object and converting it into a photograph to be recorded on a film or CD. Hence the classification under

heading No. 9006.53 as claimed in revenue's appeal in our view is the most appropriate in preference to Heading No. 8471.50, accepted by the Commissioner (Appeals). Accordingly, we allow the revenue appeal and set aside the impugned order passed by the Commissioner (Appeals).

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