

**Pragati Computers Vs. Collector of Customs**

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

**Decided On :** Sep-08-1987

**Reported in :** (1989)(42)ELT256TriDel

**Appellant :** Pragati Computers

**Respondent :** Collector of Customs

**Judgement :**

1. The question that arises for decision in this appeal is the classification of 19MB Winchester Drive and 40MB Winchester Drive which were imported under Bill of Entry No. AC 260 dated 13-11-1984. The goods were originally assessed to duty under heading 84.51(55)(2) and 85.10(27) along with benefit of a customs notification. Subsequently a demand was issued for differential duty on the ground that the goods were not eligible to the concessional rates under the Notification. The Asstt. Collector confirmed the demand and the appeal before the Appellate Collector failed. Hence the present appeal.

2. Shri V. Laxmikumaran, Ld. Advocate submitted that the Tribunal has earlier considered the question of extending the benefit of the exemption Notification to Winchester Drive. As the goods in question are also Winchester Drive, the ratio of earlier judgment of the Tribunal should be applied and the benefit of Notification 237/83-Cus.

should be extended to them. Shri J. Gopinath, Ld. SDR agreed that the goods are covered by the earlier judgment but submitted that he repeats the arguments

which he advanced in the earlier appeal cited by the Ld.

Advocate for the appellants. This judgment was in Infosys Consultant Private Ltd. v. Collector of Customs 3. We have considered the arguments of both sides and have perused our earlier judgment cited by the Ld. Advocate. EM Electronics (EM Electronics Pvt. Ltd. v. Collector of Customs, Order No. 421 of 87-B2, dated 23-8-1987). We have perused that order also and note that the Ld. SDR's arguments were rejected in that appeal.

4. Following the ratio of the earlier judgments of the Tribunal we reject Shri J. Gopinath's arguments and hold that the ratio of the judgment should be applied to the present appeal also. We order that Winchester Drives imported by the appellants should be extended the benefit of Notification 237 of 1983 and that consequential relief should be granted to them by way of either non-enforcement of the demand or refund if the differential duty had been paid. We allow this appeal in these terms.

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