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SooperKanoon Citation : sooperkanoon.com/38548

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-21-2005

Judge : A T V.K., P Bajaj

Appellant : Hcl Ltd.

Respondent : Commissioner of Customs

Judgement :

1. The issue involved in this Appeal filed by M/s. HCL Ltd. is whether Risograph is classifiable under sub-heading 8443.50 of the First Schedule to the Customs Tariff Act as claimed by them or under sub-Heading 8472.90 has confirmed by the Commissioner (Appeals) under the impugned order, as duplicating machines.

2. Shri K.K. Anand, learned Advocate, mentioned that the classification of Risograph has come up for consideration of this Tribunal in the case of Pioneer International v. Collector of Customs, Kandla 2000 (122) ELT 430 (Tri) wherein the same has been classified as a office machine having duplicating function under sub-Heading 8472.90 of the Customs Tariff. He, however, submitted that certain facts were not considered by the Tribunal while deciding the matter of Pioneer International that as per Explanatory Notes of HSN below Heading 84.43 which applies to printing machinery, it is mentioned that Heading 84.43, in addition to the normal type of printing machines also covers special machines such as machines for printing clock or watch dial or other articles of special shapes; that one of such machines is "small office printing machines, which operate by means of printing type or by the off-set process and which are improperly referred to as "duplicating

machines" because their operating principles and appearances are similar to those of duplicating machines." Learned Advocate contended that it is thus apparent from the said Explanatory Notes that the Risograph imported by them is nothing but printing machine. He also relied upon the number of certificates given by Government Printing and Stationery Department.

Indian Institute of Technology, etc. which mention that they have purchased Risograph machines from the appellants for printing of question paper / different government work; that these certificates also clearly shows that the impugned machine is printing machine and not duplicating machine.

3. On the other hand, Shri A.S. Bedi, learned Senior Department Representative, submitted that all these aspects have been considered by the Tribunal in the case of Pioneer International. He specifically referred to para 4 of the said decision which refers to various letters produced by the learned Advocate from Government Organisation using these machines, and contended that these letters establishes that the machine is printing machine.

4. We have considered the submissions of both the sides. We observe that the issue regarding the classification of Risograph printing 5600 D has been settled by the Tribunal in the case of Pioneer International (to which one of us was party). After considering the Explanatory Notes of HSN for Heading 84.43 and Operational Panel, the Tribunal came to the conclusion that the Risograph can not be treated as off set printing machinery so as to be classifiable under sub-Heading 84.43 of the Tariff. We do not find any reason to differ with the classification earlier decided by this Tribunal. Accordingly, we reject the Appeal filed by the Appellants.