Datamatics Information Tech Ltd. Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jul-13-2005

Reported in : (2005)(189)ELT470Tri(Mum.)bai

Judge : S T S.S., T Anjaneyulu

Appellant : Datamatics Information Tech Ltd.

Respondent : Commissioner of Central Excise

Judgement :

1. Appellants are inter alia, engaged in the activity of installation of Fire Alarm Systems ("FAS" for short) and Closed Circuit Television System ("CCTV" for short). These systems are installed at the premises of various customers. Various items of equipment such as cameras, receiver driver units, pan and tilt units, multiplexers, detectors, panels, monitors, cabling, etc., are either purchased locally or are imported by the Appellants. These items are directly dispatched to the work sites where they are connected & installed from the plan showing the various items installed and their inter alia connection. It is seen, that the entire system is spread over a wide range and become parts of the civil structure from various pieces that had been brought and can be shifted only by dismantling it into components and there- after the shifting is of components.

2. We find that in the case of Fire Alarm System, this Tribunal in the case of Electronics Services v. CCE - 2000 (120) E.L.T. 468 had come to a conclusion that a Fire Alarm System, no such system came into existence at the factory of the

Appellants. A Fire Alarm System, as per H.S.N Explanatory Notes, consists of two parts. The Appellants there only manufactured alarm panel, repeaters, etc., and not the detecting part. Therefore it was held and noted that to the Fire Alarm System being manufactured cannot be added the value of the components brought from outside or the assessee be held to have manufactured for levy of duty on Fire Alarm System as a whole. Following this decision and on noting the submission of ld. Advocate that in the present case the appellants do not even have a factory of their own and all items have been bought out from which imported components and after going through the instructions under Section 37B order No. 58/1/2002-CBEC, dated 15-1-2002, which vide para 4(vi) stipulates, if the goods are incapable of being sold, shifted and marketed without first being dismantled into component parts, the goods would be considered as immovable and therefore not excisable to duty, this order of the Board has considered the various Supreme Court's decisions including the decision in the case of Sirpur Paper Mills Ltd v. CCE - relied upon by the Id. Commissioner (Appeals). Therefore, we find no reasons to depart that the logic and instruction in para 4 of this instruction which we find are applicable in the facts of this case. We would find no merits in arriving at a conclusion to consider Fire Alarm System and CCTV System to be excisable goods coming into existence at a site & which cannot be shifted but as components. The appellants herein are not liable to pay duty under Central Excise Act on such 'systems'.

3. In view of the finding no merits are found, and the order is set aside.