

Printers (Mysore) Ltd. Vs. Collector of Customs

Printers (Mysore) Ltd. Vs. Collector of Customs

SooperKanoon Citation : sooperkanoon.com/8955

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-05-1995

Reported in : (1996)(82)ELT293TriDel

Appellant : Printers (Mysore) Ltd.

Respondent : Collector of Customs

Judgement :

1. This is an appeal with reference to the order of the Collector (Appeals), Madras, dated 2-12-1985.
2. Learned representative of the appellants stated that they had imported Auto-Pasters which are parts of the WEB printing machine.
3. The machine had itself been imported earlier and these parts were imported subsequently. They were classified under the same heading as the machine, but the benefit of Notification 114/80 as amended was not extended to them in case of these auto pasters. They cleared the goods under protest. Subsequently, when they applied for re-assessment, the Assistant Collector rejected their contention on the ground that they were accessories and not parts and further, they had not been imported under the original contract for the machine but subsequently by a separate order and the machine had been running in the meanwhile.
4. The Collector (Appeals) also rejected their petition on the ground that the original contract for the machine is silent regarding the supply of autopaster and

the proforma (quotation) also shows that the autopaster is an optional supply and the value of the same is quoted separately.

5. It was their submission that it was a part and not accessory. They had produced the photographs in support of their contention. In response to Bench's query, the learned representative of the appellants stated that he has not filed any catalogue or technical literature.

However, he can do so if time was allowed for this purpose. It was his submission that since the Web Printing Machine itself was eligible for notification and as per the Chapter note of Section XVI, the parts were also required to be classified with the machine if they were principally or wholly used with that machine. It was his submission that these parts were only used with the offset printing machine and increased its efficiency and therefore, once the machine itself was eligible for benefit of notification, the parts even if subsequently imported should also be granted the same benefit.

6. In response to queries from the Bench, learned representative of the appellants accepted that a notification covering parts of the machine was issued subsequently much later and was not in existence at the time of the importation.

7. Learned DR drew attention to the Order-in-Original and the order-in-appeal. He stated that as noted by these authorities, the original consignment of the printing machine was itself imported in 1981 and the original contract did not provide for supply of autopaster. The autopasters were imported as a result of a separate order in 1983 i.e. about two years after the importation of the machine which had been running in the meanwhile. The proforma quotation also shows autopaster as an optional supply and its value has been quoted separately. It is only an accessory in the printing machine.

8. Further, the case can be considered even without giving further time to the appellants because irrespective of the fact as to whether it was a part or an accessory, it was necessary for the appellants to show that it was covered by the notification 114/80 as claimed.

9. A perusal of the notification would show that while the notification covers the offset machine, it does not cover either parts or accessories. Hence, it was his request that the matter may be decided on this basis and if this is taken into consideration, orders can be passed even without waiting for the catalogue.

11. We have considered the above submissions. We observe that the learned DR's submissions have a lot of force and the orders of the lower authorities are correct.

12. Admittedly, there is no dispute on the classification as these items were already classified under the same heading in which the main machine had earlier been classified.

13. Insofar as the exemption notification is concerned, it allows the benefit thereof only in respect of the goods specified in the Table appended to it. This Table does not specify autopaster for printing machine. Not only that the Entry at Sr. No. 1, which covers the main machine does not include parts or accessories thereof or any auxiliary equipment.

14. In these circumstances, the appellants' request cannot be accepted.

The orders of the lower authorities are correct and the submission of the learned DR that the notification does not cover this item is also correct. Hence, the appeal is rejected.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com