Commr. of Central Excise Vs. Videocon Vcr Ltd.

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SooperKanoon Citation : sooperkanoon.com/9074

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jan-12-1996

Reported in : (1996)(83)ELT436Tri(Mum.)bai

Appellant : Commr. of Central Excise

Respondent : Videocon Vcr Ltd.

Judgement :
1. This appeal has been filed by the Revenue against Order-in-Appeal No. A/377/95, dated 25-8-1995 passed by the Commissioner of Central Excise & Customs (Appeals), Pune.

2. Though this day, the appeal was listed for hearing for admission, Shri Gurdeep Singh, the ld. JDR pleads that this has got a recurring implication and also involves a point of law. He was prepared to argue the appeal itself. Hence admitting this appeal, I heard his arguments.

3. The issue relates to the eligibility for Modvat Credit in respect of dry battery cells fitted as components for remote controls, which are manufactured by the Respondents and supplied alongwith the TV sets. The Commissioner (Appeals) has allowed the benefit of Modvat credit in respect of such dry battery cells. Revenue is aggrieved by this order.

4. Shri Gurdeep Singh, the ld. JDR pleads that remote control itself is an accessory to TV set and even without remote control TV can function.

Even otherwise, remote control can be marketed without dry battery cell; because such battery cells can be procured from the market and fitted to the remote control. Hence these dry battery cells could not be construed to be going in or in relation to the manufacture of the final products. This position has not been appreciated by the Commissioner (Appeals). The Commr. (A) seeks to rely on the decision of the Tribunal in Jayshree Industries 1993 (63) E.L.T. 492 (T), which may not be applicable in the aforesaid facts and circumstances of the case.

5. After hearing both the sides, I find that the Respondents are not only manufacturing TVs but also remote controls. Whether it is supplied with the TV set or independently cleared, it is a dutiable excisable product and can be cleared from the factory only on discharge of the duty leviable thereon. It is not disputed that remote control cannot function without dry battery cells being fitted as a component. It may be that such components are available in the market for replacement.

That does not mean that when the instrument is supplied with the battery cells as a component for its effective functioning and testing before delivery to the customer, it cannot be construed to be not going in or in relation to the manufacture of the final product. This is the view the Tribunal have taken in the case of Jayshree Industries, after considering various case laws including the judgment of the Supreme Court. The Commissioner (Appeals) has followed the said decision. Hence I do not find any reason to interfere with the order of the Commissioner (Appeals). Appeal is therefore dismissed.