

Summit Electronics Pvt. Ltd. Vs. Commissioner of C. Ex.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Apr-12-1996

Reported in : (1997)(89)ELT205Tri(Mum.)bai

Appellant : Summit Electronics Pvt. Ltd.

Respondent : Commissioner of C. Ex.

Judgement :

1. In the impugned order cited above, the Collector (Appeals) has confirmed the findings of the Assistant Collector denying Modvat benefit in respect of CPU cards on the ground that it is not specifically declared in the Modvat declaration.

2. On a perusal of the Modvat declaration, it is found that as against the final product automatic data processing machines, units thereof, classifiable under Chapter 8471, 8472, 8473, they have declared various components and raw materials as per list attached. It is the plea of the Id. Advocate Shri K.V. Oza that CPU cards is nothing but a part of CPU, which is classifiable under Chapter 8471 and they have broadly described the item as parts of computer against TH 8473; on account of that the benefit of Modvat credit should not be denied. They have given this declaration from the introduction of Modvat Scheme in 1986.

However, the objection was raised only in 1987 on account of certain audit and subsequently they have specifically mentioned CPU cards in the list and Modvat credit is being allowed. This would clearly indicate that it is an eligible input and hence should not be denied Modvat benefit.

3. Ms. Bharati Chavan, the Id. JDR however, pleads that parts of computer referred to in the list are parts other than CPU cards. They are classifiable only under TH 8471 even as per Chapter Note and hence when they have not specifically declared this, they are not eligible for Modvat credit.

4. After hearing both the sides, I find that in their declaration all components and raw materials as per list attached are declared. Though CPU cards are not classifiable under 8473, they are. components for CPU and in that view could be construed to be a declared item. The omission is construed to be technical and hence appeal is allowed.

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