Collector of Central Ex. Vs. Coromandal Electronics

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-10-1996

Reported in : (1997)(90)ELT443TriDel

Appellant : Collector of Central Ex.

Respondent : Coromandal Electronics

Advocate for Pet/Ap. : Shri. P. Dass

Judgement :

1. By the present appeal the department had assailed the order of Collector (Appeals) holding that there is nothing in the notification or in any technical literature produced before the Assistant Collector or relied upon by him which makes a differentiation between "populated printed circuit board" and "printed circuit board".

2. The facts of the case are that the respondents herein are alleged to be manufacturers of alleged "printed circuit boards (chassis assembly)". The respondents were getting the alleged "unpopulated printed circuit boards" with perforated holes on it from M/s.

Dynavision. The respondents herein claimed the benefit of Notification No. 74/85 saying that they are manufacturing only "unpopulated circuit boards" and therefore such circuit boards were exempt whereas the Assistant Collector held that the appellants were manufacturing "populated printed circuit boards" and that populated printed circuit boards were not eligible to the benefit of Notification No. 74/85.

However, the Collector (Appeals) set aside the order of the Assistant Collector holding that there is no difference between "populated printed circuit board" and "printed circuit board".

3. Shri P. Dass the learned SDR appearing for the appellants submits that "printed circuits" are circuits obtained by forming on an insulated base by any printing process or by film circuit technique, conductor elements, contacts or other printed components alone or interconnected according to a pre-established pattern. The learned SDR submitted that the respondents herein received "unpopulated printed circuit boards" and assembled among other things components like transistors and integrated circuits which can motivate electric signals by soldering on the "imprinted circuit boards". The learned SDR submitted that by affixing the components on "unpopulated printed circuit boards" the printed circuit board becomes "populated printed circuit". The learned SDR also submitted that the learned Collector (Appeals) had wrongly held that "populated printed circuit board" and "printed circuit board" are one and the same thing. He submitted that printed circuit board and populated printed circuit board are two distinct and different commodities and the finding of the learned Collector (Appeals) was wrong and erroneous. He submitted that since the respondents herein were manufacturing "populated printed circuit boards" therefore the benefit of Notification No. 74/85 which exempts only "printed circuit boards" and "unpopulated printed circuit boards" shall not be eligible to the respondents herein. He therefore prays that the appeal may be allowed. None appeared for the respondents.

4. Heard the submissions of the learned SDR, perused the case records.

There is none for the respondents. We find that Notification No. 74/85 exempts only "printed circuit boards" and "unpopulated printed circuit boards". The admitted position in this case is that the circuit boards cleared by the respondents herein were printed circuit boards. The limited issue for determination is whether addition of capacitors, transistors etc. will make it a "populated" circuit board or the circuit board shall be treated only as a "printed" circuit board. We find that a "printed" circuit board consists of insulated board with proper conductors laminated on it. Further, we find that conductors may be formed by photo chemical fetching process or by deposition. Thus, a "printed" circuit board does not contain any external material which is loaded or affixed in the places provided in the "printed" circuit board. Addition of certain components like transistors, integrated circuits make it "populated printed circuit boards". The admitted position in the instant case is that the respondents herein were adding resistors, capacitors and other components in the places provided for the purpose. With addition of, these components the "printed" circuit board does not remain a "printed" circuit board but had become a "populated circuit board." We therefore hold that the goods manufactured by the respondents herein were "populated printed circuit boards" and not "unpopulated" printed circuit boards. The word "unpopulated" is significant in this notification which means that "populated circuit boards" are outside the purview of the exemption under this notification. The finding of the learned Collector (Appeals) that there is no difference between the "printed circuit board" and "populated printed circuit board" is not acceptable nor does it appear to be technically sound. In this view of the matter we hold that since goods manufactured by the respondents herein are "populated printed circuit boards" therefore they are not eligible for the benefit of Notification No. 74/85. In the result the appeal is allowed.