Peak Electronic Systems Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-09-1996

Reported in : (1996)(88)ELT516TriDel

Appellant : Peak Electronic Systems

Respondent : Collector of Central Excise

Judgement :

1. In this appeal filed by M/s. Peak Electronic Systems, Bangalore, the matter relates to the classification of the product "Electronic Igniters for Sodium Vapour Lamps". The Collector had classified these goods under Heading No. 85.04 of the new Central Excise Tariff. The Asstt. Collector had classified the goods under Heading No. 85.39 of the Tariff.

2. The matter was posted for hearing on 9-9-1996. The notice for today's hearing had been sent to the appellants on 13-8-1996 with a copy to the counsel on record. There is no response from the appellants. There is no request for adjournment. As the matter is very old, we are proceeding to deal with the matter on merits after hearing Shri M. Jayaraman, JDR, who is present for the respondents/Revenue.

3. Shri M. Jayaraman, JDR, referred to the product in question and submitted that the Electronic Ignitor was covered by the description of Electrical Static Convertor under Heading No. 85.04 of the Tariff. He referred to the product literature and the discussion in the order-in-appeal.

4. We have carefully considered the matter. The three competing entries are Heading No. 85.04, 85.38 and 85.39 (should be 85.48). They are extracted below: "85.04 Electrical transformers, static converters (for example rectifier and inductors). 85.38 (should be 85.48). Electrical parts of machinery of apparatus not specified or included elsewhere in this Chapter (Chapter No. 85).

85.39 Electric filament or discharge lamps including sealed beamed lamp units and ultra violet or infrared lamps arc lamps." 5. The appellants had described their product as a voltage booster to supply strong current pulse required to light the sodium vapour lamp.

In the product literature, it has been described as a highly advanced device used in firing high pressure sodium vapour lamps. It had been described as a rugged unit moulded in a compact cylindrical aluminium housing. The Assistant Collector of Central Excise, Bangalore, had classified the goods as "parts of electric discharged lamps" under Heading No. 85.39 read with Notification No. 87/83 dated 1-3-1983, as amended by Notification No. 161/86-CE., dated 1-3-1986. He had observed that Sodium Vapour Lamps were covered by Heading No. 85.39 and as per the guidelines issued in note 2(a) of the Section XVI of the Tariff, the parts were classifiable under the same heading under which the finished goods were classifiable. As the igniters were part of the discharge lamps, they were also classifiable under Heading No. 85.39.

6. The Collector of Central Excise (Appeals) has held that the goods in question were a "ballast". "Ballast" is a device to keep an electric current constant consisting of an iron wire mounted in a vacuum tube filled with hydrogen. Its varying resistance counteracts fluctuations of voltage. In the dictionary of Electrical Engineering, 2nd Edition, by K.G. Jakson (Butter Worth), Ballast has been defined as under: " "A device such as a resister or indicator inserted in series in a circuit to limit the current and provide stable operation under changing conditions." As the product literature and description indicate an electronic ignitor cannot be considered as a Ballast." 7. The vapour lamps produce upto six times the light per watt of electricity. It is a lighting device and there is no dispute that it is covered by Heading No. 85.39 of the Tariff. As per Explanatory Notes to the Harmonized

Commodity Description and Coding System, Sodium Vapour Lamps consist of a glass envelope (usually tubular) or a quartz envelope (usually in a outer envelope of glass), furnished with electrodes and containing, under low pressure either a gas which becomes luminous under the influence of an electric discharge or a substance which gives of a vapour having similar properties. The parts of such lamps are covered by the same heading. The appellants had sought to classify the goods under the residuary entry No. 85.48 under Chapter 85. The electronic converter housed in the same glass envelope in which other parts of the Sodium Vapour Lamps are contained. As for lighting the lamp, the lighter is necessary, its classification should be as that of the lamp itself. As the goods appear to be properly classifiable under Item No. 85.39, there is no basis to go to the residuary entry under Heading No. 85.48.

8. Taking note of all the relevant considerations we set aside the order-in-appeal and determine the classification of the Electronic Converter under Heading No. 85.39, sub-heading 8539.00. The Assistant Collector had observed that the goods were eligible for exemption under Notification No. 67/83-C.E., dated 1-3-1983, as amended. As all parts of the goods classifiable under subheading 85.39 have been covered by Sl. No. 9 of the table annexed to that notification, we find no infirmity on this account in the view taken by the Asstt. Collector of Central Excise, Bangalore.