CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Miscellaneous Application No. 20335 of 2024
in
Customs Appeal No. 20068 of 2018

(Arising out of Order-in-Appeal No. 916/2017 dated 13.10.2017 passed by the Commissioner of Customs (Appeals), Bangalore.)

Commissioner of Customs
C R Building,
Queens Road,
Bengaluru.

Appellant(s)

VERSUS

M/s. Antrax Technologies Pvt. Ltd.
699 – M, 2nd Floor, 1st Main,
80 Feet Road, 1st Stage, 2nd Block,
HBR Layout,
Bangalore - 560 043.

Respondent(s)

With

Customs Appeal No. 21145 of 2018

(Arising out of Order-in-Appeal No. 185/2018 dated 16.04.2018 passed by the Commissioner of Customs(Appeals), Bangalore.)

Commissioner of Customs
A&ACC Commissionerate Air Sats Building,
Devanahalli,
Bengaluru - 560 300.

Appellant(s)

VERSUS

M/s. Acer India Pvt. Ltd.
B-7, B-8 & 11 & A-12, Sipot Industrial Park,
Siriperumbadur,
Kanchipuram.

Respondent(s)

APPEARANCE:

Mr. K.A. Jathin, Deputy Commissioner (AR) and
Mr. Maneesh Akhoury, Asst. Commissioner for the Appellant/Revenue.

Mr. Cheriyan Punnose, Advocate for the Respondent No.1; and
Mr. Syed Peeran, Ms. Shradha Pandey, Advocates for the Respondent No.2

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS R BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20881 - 20882 /2024

DATE OF HEARING: 17.09.2024
DATE OF DECISION: 17.09.2024

PER : D.M. MISRA

The Miscellaneous Application (in Appeal No.C/20068/2018) has been filed by the Revenue seeking change of cause title of the appellant to "The Principal Commissioner of Customs, Airport & Air Cargo Commissionerate, Kempegowda International Airport, Devanahalli, Bangalore – 560 300"; earlier it was' Commissioner of Customs, C.R. Building, Bangalore'. Consequently, the Miscellaneous Application for change of cause title is allowed. Even though the said appeal No. C/20068/2018 has not been listed today for final hearing, as the issue involved in appeal No. C/21145/2018 filed by the Revenue involving the same issue is listed today, both the appeals are taken up together for disposal with the consent of both sides.

3. After hearing both sides, we find that the issue involved in these appeals lies in a very narrow compass viz., classification of DLP data projectors. In Appeal No. C/20068/2018 (M/s. Antrax Technologies Pvt. Ltd.), the respondent declared their imported product as "Video Projector with Accessories (PT-W17KE Color DLP Projector)"; whereas in Appeal No. C/21145/2018 (M/s. Accer India Pvt. Ltd.), the respondent declared the imported goods as "DLP Data Projectors - Model X1140A, SVG 2700 LmAIL and Data Projectors - Model Acer k 330 LED DLP WXGA500 Lm AILS". In both the cases, the respondents have declared the

classification of the imported goods under Customs Tariff Heading (CTH) 8528 6100 by claiming exemption from Basic Customs Duty (BCD) under Notification No.24/2005-Cus. (Sl.No.17) dated 01.03.2005, whereas the Revenue proposed its classification under CTH 8528 6900 as "other projectors" denying the benefit of the said Notification. It has been argued vehemently by the learned advocates for the respondents that merely because the data projectors having additional features like Video Port, S-Video Port, HDMI, etc., it cannot be classifiable under CTH 8528 6900. The said issue is no longer *res integra* as it is covered by the various Judgments of the Tribunal which has been upheld by the Apex Court. In support, they have referred to the judgments:

- M/s. Acer India Pvt. Ltd. vs. Commissioner of Customs, Chennai: 2010-TIOL-401-CESTAT-MAD
- M/s. Acer India Pvt. Ltd. vs. Commissioner of Customs, Bangalore: 2011-TIOL-359-CESTAT-BANG
- Acer and Dell India Pvt. Limited vs. Commissioner of Central Excise, Customs and Service Tax: 20187-TIOL-1720-CESTAT-BANG.
- Epson India Pvt. Ltd. vs. CC, Chennai: 2019 (366) E.L.T. 847 (Tri. – Chennai) affirmed by Hon'ble Supreme Court in 2019 (366) E.L.T A173 (S.C.).
- M/s. BenQ India Pvt. Ltd. vs. ADG (Adjudication), New Delhi: 2022 (9) TMI 690 – CESTAT NEW DELHI
- CC, ACC, Mumbai vs. Vardhaman Technology P. Ltd.: 2014 (301) E.L.T, 427 (Tri. - Mumbai)
- Aveco Technologies vs. CC, Hyderabad: 2018-TIOL-1150-CESTAT-HYD.

4. We find that the case of **M/s. Acer India Private Limited vs. Commissioner of Customs, Chennai: 2010-TIOL-401-CESTAT-MAD**, the Tribunal after considering similar set of facts held as under:

> "3. After hearing both sides and perusal of case records, we find that as per Chapter Note 5 (C)and (D) to Chapter 84 the monitors and projectors, not

incorporating television reception apparatus are to duded from being classified under Heading 8471 even though they are of the kind solely or Principally used in an automatic data processing system. We also find that projectors of a kind solely or principally used in an automatic data processing system of Heading 8471 are classified under sub- heading 8528.61. In fact, the impugned goods have been classified by the original authority in respect of 12 out of 13 cases under Heading 8528.61. Only in one case the same has been classified by the original authority in the residual category 8528.69. The impugned exemption Notification No. 24/2005 dated 1.3.2005 as amended during the relevant period exempts all goods falling under sub-heading 8528.61. The description under the sub-heading 8528.61 uses the expression of a kind solely or principally used. From the arguments advanced before us as well as from the details furnished, we find that the impugned projectors are principally used for data projection by being connected to either a laptop or a desktop computer. DVDs can also be played from the DVD drive of a laptop and desktop computer through the projector apart from projecting power point presentations, word files, excel charts etc. It seems to have weighed with the lower appellate authority that the projectors also had video compatibility as mentioned in the relevant catalogue. But such video compatibility does not come in the way of the impugned goods being classified under SH 8528.61 so long as the principal use of all such projectors with laptop and desktop computer systems is not doubted and as the sub- heading covers both sole use' as well as principal use'. Looking at the features of the Impugned data projectors imported by the appellants, we have no doubt in our mind that the same merit classification under SH 852861 and automatically become entitled to exemption under Notification No. 24/2005 as the same exempts all goods under the said sub-heading. Hence, we set aside the Impugned order and allow all the 13 appeals."

We find that this view has also been followed by this Tribunal in the case of **Epson India Pvt. Ltd. vs. CC, Chennai: 2019 (366) E.L.T. 847 (Tri. – Chennai)** which has been affirmed by Hon'ble Supreme Court as reported at **2019 (366) E.L.T A173 (S.C.)**. We also find that the said judgment has been followed subsequently by this Tribunal in one of the respondent's own case i.e., **M/s. Acer India Pvt. Ltd. vs. CC, Chennai: 224 (1) TMI 147– CESTAT CHENNAI,** wherein the benefit of the Notification No.24/2005-Cus. dated 01.03.2005 has been extended to the imported DLP Data Projectors classified under CTH 8528 6100.

5. In view of the consistent opinion of this Tribunal, we are of the view that merely because the imported products have additional facility like attachment of Video Port, S-Video Port, HDMI, etc., the impugned goods cannot be classifiable under CTH 8528 6900. In the result, the impugned orders are upheld and appeals filed by the Revenue are dismissed.

(Order dictated and pronounced in Open Court.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R BHAGYA DEVI)
MEMBER (TECHNICAL)

hr/rv