

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,  
REGIONAL BENCH : ALLAHABAD**

**C/70835/2016-CU[DB], 70836/2016-CU[DB]**

(Arising out of Order-in-Appeal No.NOI-CUSTM-000-APP-0049 & 0050-16-17 dated 17.05.2016 passed by Commissioner, Customs, Central Excise & Service Tax, Noida.)

M/s. Hindustan Coca Cola Beverages Pvt.Ltd.

...APPELLANT(S)

VERSUS

Commissioner of Customs, Central Excise & Service Tax, Noida

RESPONDENT (S)

APPEARANCE

Shri Rahul Agarwal (Advocate) for the Appellant (s)

Shri Sandeep Kumar Singh (Dy.Commr.) (A.R.) & Shri Mohd. Altaf  
(Asstt.Commr.) (A.R.) for the Revenue

**CORAM:**

MRS. ARCHANA WADHWA, HON'BLE MEMBER(JUDICIAL)

SHRI ANIL G. SHAKKARWAR, HON'BLE MEMBER(TECHNICAL)

DATE OF HEARING : 05.12.2018

DATE OF PRONOUNCEMENT : 11.12.2018

FINAL ORDER NO.72833-72834/2018

**Per Mrs.Archana Wadhwa :**

Both the appeals are being disposed of by a common order as the issue involved in both of them is identical.

2. As per facts on record, the appellants imported machine described by them as "Beverage Cooler SC-80" under the claim of classification falling under Customs Tariff 8418 50 00. Revenue sought to classify the same under Heading 8418 69 30. After initiation of proceedings against the appellant, the lower authorities have classified the goods under Heading 8418 69 30. Hence the present appeals by the appellant.

3. As per the appellant, duly represented through their Advocate Shri Rahul Aggarwal, the machine in question was a Beverage Cooler as "Coca Cola Splash Bar" which is unique device that provides portable counter top refrigeration as well as easy to operate beverage dispensing system. It uses existing large size Coca Cola System pet bottles connected to a dispenser system to deliver small low volume services. As per the manufacturers user manual given by the supplier along with the products as well as import invoices described the product as "Beverage Cooler" and hence the declaration of description of the goods on the Bills of Entries filed on 31.08.2015 and 04.09.2015 were the correct declaration. By drawing our attention to the contending entries, as also to the products manual, it stands contended that the Beverage Cooler would not fall under the definition of vending machines and as such would not be classifiable under Heading 8418 69 30 and was correctly classifiable under Heading 8418 50 00. Various dictionary meanings have also been relied upon in support of their plea that vending machines are the one which are capable of selling a product on its own without any human intervention. Therefore a mere dispenser which does not have a money accepting feature cannot be classified under Heading 8418 69 30. As such learned Advocate submits that the machine is required to be classified as a refrigerating machines which falls under Heading 8418 50 00.

4. On the other hand the learned A.R. appearing for the Revenue has relied upon the impugned orders and have submitted that inasmuch as admittedly the machine imported by the appellant has the function of dispensing the goods, the same has to be held as vending machines.

5. After appreciating the submissions made by both the sides and after going through the impugned orders we find that the dispute in the present appeals relates to the classification of the imported product "Beverage Cooler-

SC-80". The two contending entries are CTH 8418 50 00 as claimed by the importer and CTH 8418 69 30 as held by the Revenue. For better appreciation of the said two contending entries, the same are reproduced below:-

<b>8418</b>	<b>Refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps other than air conditioning machines of heading 8415</b>
8418 10	- Combined refrigerator freezers, fitted with separate external doors :
.....	.....
	- Refrigerators, household type :
.....	.....
8418 30	- Freezers of the chest type, not exceeding 800 l capacity:
.....	.....
8418 40	- Freezers of the upright type, not exceeding 900 l capacity:
.....	.....
<b>8418 50 00</b>	<b>- Other furniture ( chests, cabinets, display counters, showcases and the like) for storage and display, incorporating refrigerating or freezing equipment</b>
	- Other refrigerating or freezing equipment: heat pumps :
8418 69	--Other :
8418 69 10	---Ice making machinery
8418 69 20	---Water cooler
<b>8418 69 30</b>	<b>---Vending machine, other than automatic vending machine</b>
.....	.....
8418 69 90	--- Other

6. Heading 8418 takes into its ambit the refrigerators, freezers or freezing equipments. The sub-heading 50 00 relates to the other furniture for storage and display, incorporating refrigerating or freezing equipments. The sub-heading 8418 69 30 covers vending machines other than automatic vending machine. We have also examined the seller's manual showing the various features of the machine in question. The said literature shown to us depicts that apart from cooling the bottles of Coca Cola, the machine has the mechanism for fixing to large size Coca Cola Beverage bottles in upside-down positions and the machine has two tap like outlets for dispensing beverages by operating through tap triggered handles. The fact that the said machine is used for beverage dispensing system is also not being disputed by

the learned Advocate. However, their contention is that inasmuch as the primary function of the machine is cooling and refrigerating, the mere fact that the same is also used as dispenser for serving the beverages to consumers will not change the classification.

However, we note that the heading 8418 50 00 is for the other goods used for storage and display, incorporating refrigerating or freezing equipments. As is clear from the wordings, the said headings cover the goods which are meant for storage as well as display of beverages to be sold. Admittedly all the items falling under heading 8418 invariably have storage facilities apart from refrigeration or freezing or cooling. As such, as rightly observed by the authorities below, the classification of a product would depend upon the additional feature or function which the machines carry apart from cooling or storage. As per catalogue produced by the appellant, the machines in question have a very small storage facility and the same are not designed for display of the articles stored therein. There is no feature shown in the said catalogue indicating any display of the products stored inside. The same is capable of storing a few number of bottles out of which two bottles stand fixed upside down with a tap outside, so as to dispense with a fixed quantity of beverage. The fact that the machine has the capacity to dispense with the fixed quantity of the beverage itself shows that the same is a vending machine. The contention of the learned Advocate that heading 8418 69 30 only covers the automatic vending machine, without any human intervention, cannot be accepted inasmuch as the said heading includes

vending machines, other than automatic vending machines. This indicates that automatic vending machines are not covered by the said heading which relate to only vending machines.

7. The Commissioner(Appeals) by holding the classification as falling under 8418 69 30 as observed as under:-

"The product is named as "coca-cola splash bar" in the product literature and stated to consist of "*a portable counter top refrigerator and beverage dispensing system*" powered by electricity. The product literature presented by the appellant clearly depicts that it has mechanism for fixing two large size coca-cola beverage bottles in upside-down position and the machine has two tap like outlets for dispensing beverages by operating through tap trigger handles. The CTH 84185000 COVERS "*furniture (chests, cabinets, display counters, show-cases and the like) for storage and display*". The product impugned in the instant proceedings definitely and undisputedly incorporates "*beverage dispensing system*" and is not designed for mere 'storage and display'. The appellant's contention for classification under CTH 84185000 is based on the argument that the impugned machine cannot be considered as a 'vending achine in the absence of an automatic dispensing system like a coin operated machine. The term 'vending' means 'to sell'. The appellant has not presented any material or argument to canvass that the term 'vending machine' would include only such machines that have automatic dispensing mechanism devoid of any human interface. The term or word 'vending machines' cannot be limited to machines having 'automatic mechanisms' only in the absence of any such limitation placed in the statute. The scheme of heading 84.18, extracted *supra*, clearly cover "**Vending machine, other than automatic vending machine**" (emphasis supplied) under sub-heading No.84186930. The tariff entry recognizes automatic vending machines and also vending machines that are not automatic. I find and hold that the term "vending machine" in sub-heading No.84186930 expressly covers "*other than automatic vending machine*" in the face of such express statutory provisions, the appellant's contention proves to be

unjustified. The appellant has advanced alternative claim for classification under CTH 84186990 by reference to rule 3(c) of Rules for Interpretation of First Schedule to Import Tariff. I note that stated rule (3) would be attracted only in case two headings merit equal consideration. The appellant has advanced the argument of equal consideration of CTH 84186990. The appellant has presented a copy of one bill of entry for similar product stated to be assessed at Chennai port under CTH 84186990. The appellant has not presented an iota of arguments or material as to how the product merits classification under CTH 84186990. I find that CTH 84186990 is a four dash residuary entry and would come into contention if a product does not merit classification under preceding entries under the heading. The determined and undisputed facts clearly demonstrate that the product in question is not designed for mere 'storage and display' and consists of a definite "*beverage dispensing system*". I find and hold that CTH 84186990 does not merit any consideration for classification of the impugned goods and as such rule 3(c) of Rules for Interpretation is not attracted in the case in hand. On consideration of the facts, circumstances and relevant statutory provisions, I hold that there is no infirmity in determination of the classification of the impugned goods under customs tariff sub-heading No.84186930 in the impugned original order. The original order is upheld and the appeal is rejected."

8. We fully agree with the above reasoning of the lower authorities, with which we have already dealt with. Otherwise also we find that in terms of Rules of Interpretation, the entry which is more appropriate and specifically covers the goods in question has to be adopted as against the general entry. Vending machines stand covered by heading 8418 69 30 specifically includes the vending machines and the goods in question admittedly being vending machines have to be held as covered by the said heading. Further reference to the Section Notes as also Chapter Notes by the original adjudicating authority are also

appropriate. For better appreciation of the same we reproduce the relevant paragraphs from the order of the Commissioner(Appeals):-

".....I observe that product has a very small capacity of storage I observe at a time two bottles of 2 to 2.5 litres can be fitted in the 'Beverage Cooler' for dispensing of cooled beverage while three similar bottles can be stored on their back inside the cabin for cooling purpose. Keeping in view of the landed cost of per machine (including customs duty) which is more than Rs.17000/- and have a small storage capacity of just 80 ltrs, I do not find that any prudent person will buy such goods at-such cost only for storage purpose when refrigerators of higher storage capacity are available at the said price in the market. Thus, the cost of the goods also indicate that the beverage coolers have bene designed predominantly for dispensing cooled beverage to the consumers.

Note 4 to Section XVI of Customs Tariff Act'1962, read as under:

"Where a machine (including a combination of machines) consist of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in chapter 84 or chapter 85, then the whole falls to be classified in the heading appropriate to that function.

Fuyrther Note 7 to Chapter 84 reads as under:-

"A machine which is used for more than one purpose is for the purposes of classification, to be treated as if its principal purpose were its sole purpose".

The importer had stated that dominant function is cooling as observed above that all the products, covered by any sub-heading of heading 8418, invariable have the function of refrigeration or freezing or cooling of stored goods. Therefore, the classification between different sub-headings would be decided on the basis of other dominant or principal function. The vending/dispensing function is the other most predominant feature of such machine. As such, I am of the view that Beverage Coolers imported by the importer are more appropriately classifiable under CTH 84186930 as "Vending Machine other than Automatic."

9. In view of the foregoing we find no infirmity in the order impugned before us. Accordingly, the same are upheld and both the appeals are rejected.

(Pronounced in the open Court on 11.12.2018.)

SD/  
**(ANIL G. SHAKKARWAR)**  
**MEMBER(TECHNICAL)**

SD/  
**(ARCHANA WADHWA)**  
**MEMBER (JUDICIAL)**

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