CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH – COURT NO.I

Excise Appeal No.70167 of 2016

(Arising out of Order-in-Original No.23-24/COMMR/NOIDA-I/2015-16 dated 13/11/2015 passed by Commissioner of Central Excise, Noida-I)

M/s Panasonic AVC Networks India Co. Ltd. .....Appellant

(C-52, Phase-II, Noida, U.P.-201305)

VERSUS

Commissioner of Central Excise, Noida-I .....Respondent

(Renu Towers, C-56/42, Sector 62, Noida, U.P.)

APPEARANCE:

Shri Rajesh Kumar, Advocate for Appellant
Shri Anupam Kumar Tiwari, Authorized Representative for Respondent

CORAM :
Hon'ble Mrs. ARCHANA WADHWA, MEMBER (JUDICIAL)
Hon'ble Mr. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NO.70073 / 2020

DATE OF HEARING: 01 November, 2019
DATE OF PRONOUNCEMENT: 10 January, 2020

ARCHANA WADHWA

The present impugned order stands passed by the Commissioner in remand proceedings when the matter was remanded by the Tribunal vide Final Order No.FO/A/57508-57530/2013-EX(DB) dated 07 August, 2013 for fresh decision in the light of the law declared by the Hon'ble Supreme Court in the case of M/s Salora International Ltd. V/s Commissioner of C.EX., New Delhi reported at 2012 (284) E.L.T. 3 (S.C.).

2. As per facts on record, the appellant is engaged in the manufacture of sub assemblies of colour T.V. and audio systems

etc. falling under Chapter 85 of the First Schedule to the Central Excise Tariff Act, 1985. The dispute relates to the correct classification of the colour Television (C.T.V.) sub assembly manufactured by the appellants and cleared by them. It is seen that during the period February 2000, appellants had filed declaration claiming the goods to be complete unit of C.T.V. and the same were being cleared as C.T.Vs only. Thereafter they changed their stand and started clearing the goods as sub-assembly of CTVs . Revenue by entertaining a believe that the goods cleared by appellant were nothing but complete CTV sets, raised demands against them by way of issuance of two show cause notices dated 06 December, 2001 covering the period from November, 2000 to 31 March, 2001 for demand of Rs.73,50,272/- and vide show cause notice dated 27 February, 2002 covering the period April, 2001 to 31 July, 2001 raising the demand to the extent of Rs.43,31,748/-. The said demands stand confirmed by the Original Adjudicating Authority totaling to the extent of Rs.1,16,82,020/- along with confirmation of interest and imposition of penalty to the extent of Rs.20 lakhs and Rs.10 lakhs in terms of Rule 173 Q of Central Excise Rules read with Rule 25 of the said Rules. The order passed by the Commissioner is impugned before the Tribunal.

3. After hearing both the sides duly represented by Shri Rajesh Kumar learned advocate appearing on behalf of the appellant and Shri Anupam Kumar Tiwari, leaner A.R., we note that the crux of the issue relates to the correct classification of the products manufactured by the assessee i.e. whether the same have to be treated as sub-assembly of CTV or a complete colour television set. The appellants were clearing cabinets fitted with a coloured picture tube/Spk. Packing material etc as also CTV chassis (populated PCB duly wired with remote control). The said goods were being cleared by them to M/s C.K. Electronics (P.) Limited, Mohali (Punjab) and M/s TTRV Electronics Products (P) Limited, Bhiwadi. The buyers were assembling these sub-assemblies and were clearing the same as complete CTVs. The Revenue has observed that the goods namely cabinet fitted

colour picture tube and CTV chassis constitute a complete CTV and need only screw fitting/connection. The model and function of CTV are well defined and the same have all the essential character of television. As such, the product would fall under complete television set classifiable under Chapter sub-heading 8528.00 instead of Chapter sub-heading 8529.00 claimed by the party. The Adjudicating Authority has observed that CTV basically consists of PVBs and CPT fitted inside a cabinet and connected through wire and cables. The audio and video signals are received through devices known as assembly and sub-assembly. Assemblies and sub-assemblies are manufactured by mounting complicated integrated electric circuits on board in a preplanned way. By connecting all such assemblies and sub-assemblies, essential character of a signal receiving device come into existence. Inasmuch as chassis, sub-assembly was manufactured by the party by mounting various integrated circuits and components, they loose their character as a part and are called as sub-assemblies and various sub-assemblies like cabinet assembly, chassis assembly etc have essential character of TV receiver. The appellant has complete facility to manufacture the CTVs. The various sub-assemblies along with picture tubes and other component parts are captively used by appellants to manufacture CTVs and the same are also sent to the buyers for specific models which can simply be assembled at the buyers end. The process undertaken by the buyer at their end was only fitting of the assembly and sub-assembly in the chasis and connection of wire/cables. No activity of manufacture of substantial nature takes place at the end of buyers. Even the packing material was being supplied by the appellant. The appellant was not selling these assemblies/sub assemblies in the general market or to OEMs, who were not selling the same in the open market. The same number of assemblies /sub-assemblies were supplied to the OEMs as is the number of CTVs intended to be assembled at their premises. The supplying of assembly or sub-assembly was not in bulk but was matching each television sets. He has further observed that the assemblies or sub assemblies supplied by the appellant to the television manufacturers were exactly in the same number as was the number of CTV sets assembled by the buyers in their premises. They were just put together in assembled form and no vital manufacturing activity took place at their end. As such, by relying upon the Hon'ble Supreme Court decision in the case of Salora International Ltd. referred supra he held that the goods cleared from the appellant's factory were fully manufactured coloured television sets and have to be assessed accordingly.

4. Learned advocate appearing for the appellant has not disputed the fact that as per the Hon'ble Supreme court decision in the case of Salora International Ltd., the complete set of assembly and sub-assembly cleared form the manufacturer's premises and requiring only assembling in the buyers premises so as to convert them into coloured television sets have to be assessed as CTVs only. However, his contention is that in case of Salora International Ltd. the manufacturer was first assembling all the pats in his factory so as to check the working of the CTVs and thereafter the goods were being unassembled and cleared as parts.

However, we note that the said factual difference, if at all, does not distinguish the present case from the facts of the case available in the decision of the Salora International Ltd. Even if the said fact is taken into consideration, the same will not make substantial difference inasmuch as in terms of interpretative Rule 2(a), the incomplete television or unfinished television having essential character of television is to be assessed as complete television when removed in unassembled or disassembled from. Inasmuch as the goods being cleared from the assessee's factory were having all the essential character of CTV, the same were required to be assessed under Chapter Heading 8528.00. Inasmuch as the issue stands decided by the said decision of the Hon'ble Supreme Court in the case of Salora International Ltd., we find no justifiable reason to take a view different than the one taken by the Hon'ble Supreme Court. We, further note that the said decision of the Hon'ble Supreme Court was followed by the Tribunal in the case of Vewvox Systems V/s Commissioner of Cus., E. EX. & S.T., Noida-I reported at 2017 (355) E.L.T. 148 (Tri.-All.) and it was held that various parts of television sets cleared in SKD conditions have to be treated as clearance of complete television sets falling under sub-heading 8529.00. Assessee's appeal against the said decision of the Tribunal stands rejected by the Hon'ble Supreme Court reported as Vewvox Systems V/s Commissioner reported at 2017 (355) E.L.T. A24 (S.C.). The Tribunal decision in the case of Salora International Ltd. V/s Commissioner of C.Ex., Delhi-II reported at 2018 (12) G.S.T.L. 173 (Tri.-Del.), by following the earlier decision of the Hon'ble Supreme Court, is also to the same effect.

5. In view of the forgoing we find that the issue stand covered by the Hon'ble Supreme Court in the case of Salora International Ltd., and find no infirmity in the impugned order of the Commissioner. The same is accordingly upheld and appeal is rejected.

(Order Pronounced in the open Court on 10/01/2020)

Sd/-
(Archana Wadhwa)
Member (Judicial)

Sd/-
(Anil G. Shakkarwar)
Member (Technical)

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