CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
BANGALORE

Appeal(s) Involved:

C/447/2008-DB

[Arising out of Order-in-Appeal No. 30/2008 dated 27/02/2008 passed by the Commissioner of Customs (Appeals), Bangalore.]

Commissioner of Customs
BANGALORE-CUS
C.R. BUILDING, QUEENS ROAD,
P.B.NO. 5400,
BANGALORE - 560001
KARNATAKA

Appellant(s)

Versus

M/s. SHAKYA TECHNOLOGIES LTD
17/1, BELLANDUR GATE, BEHIND HDFC BANK, SARJAPUR MAIN ROAD,
BANGALORE – 560 038.

Respondent(s)

Appearance:

Dr. J. Harish, AR For the Appellant
None For the Respondent

Date of Hearing: 08/08/2018
Date of Decision: 08/08/2018

CORAM:

HON'BLE MR. S.S GARG, JUDICIAL MEMBER
HON'BLE MR. P. ANJANI KUMAR, TECHNICAL MEMBER

Final Order No. 21123 / 2018

Per : P. ANJANI KUMAR

This is a Revenue appeal filed against the Order-in-Appeal No.30/2008/CUS(B) dated 27.2.2008 passed by the Commissioner of Customs (Appeals), Bangalore.

2. The brief issue involved in this matter is that M/s. Shakya Technologies Ltd. had imported touch star finger print devices from Singapore and filed a Bill of Entry No.533462 dated 3.9.2007 before the Assistant Commissioner, Bangalore. The respondent has classified the impugned goods under CTH 8471 9000 claiming 'Nil' rate of duty of BCD. The Department classified the items under Chapter Heading 8543 7099 and charged BCD at 7.5%. On an appeal filed by the respondent, the Commissioner (A) has classified the goods under 8479 9990 and rejected the appeal filed by the respondent.

3. The learned DR submitted that the learned Commissioner (A) has overlooked the basic fact that the item imported touch star finger print devices basically operates on electrical / electric technology whereas the heading given by the Commissioner (A) is one of the residual in nature and covers machines which basically operate on mechanical technology and broadly covers items like 'Oil seed crushing machines, cable making machines, etc.' The Heading 8543 reads as 'Electrical machines and apparatus having individual functions not elsewhere specified', and therefore, they are rightly classifiable under CTH 8543 7099. The learned DR further submitted that

Commissioner (A) has failed to appreciate the issue that as per Rule 3(c) of General Rules of Interpretation of Import Tariff, the goods should be classified under the heading which occurs last in numerical order among those which equally merit consideration. In view of this Rule also, the classification merits under CTH 8543 7099.

4. Nobody represented the respondent.

5. Heard submissions of DR and perused the available records. We find that the Commissioner (A) has classified the impugned goods under CTH 8479 9990. We find that 8479 basically covers 'machines and mechanical appliances having individual functions not specified or included elsewhere in this Chapter. The machines which are listed under various subheadings of 8479 are all kind of machines which are basically mechanical appliances or machines such as machinery for buildings, oil seed crushing or grinding machines, rope or cable making machines, industrial robots, car washing machines, etc. Therefore, as contended by the Department, the classification of Finger Print Readers cannot go under CTH 8479. It is also seen that though the Commissioner (A) has discussed machinery for classification of the impugned product under 8479 held that

residual heading CTH 8479 9090 would be more appropriate, however, in the order portion the same has been mentioned as CTH 8479 9990. We find that CTH 8479 90 onwards are the classification of parts of various machines falling under CTH 8479. CTH 8479 90 90 for that matter would appropriately refer to 'Parts of other machines' and by no stretch of imagination the Finger Print Reader can be said to be part of any of the machines listed therein 8479. Therefore, we clearly find that the classification arrived at by the Commissioner (A) is not applicable.

5.1 The Department contended that CTH 8543 7099 is more applicable due to the fact that the item imported basically operates on electrical/electric technology. We find that the Head 8543 covers electrical machines and apparatus having individual functions not specified or included elsewhere in the chapter. Therefore, the classification of the Finger Print Reader would be more appropriate under this heading. We also accept the Department's contention that when the item is *prima facie* classifiable under two headings in terms of Rule 3(c) of General Rules of Interpretation of Import Tariff, the goods should be classified under the heading which occurs last in numerical orders among those which equally merits consideration. We accept this contention. Going by merits as well as by the Rules of Interpretation, we hold that the impugned product merits classification under CTH 8543 7099 as contended by the Department.

6. In view of the above, the Department’s appeal is allowed.

(Operative portion of the Order was pronounced
in Open Court on **08/08/2018**)

P. ANJANI KUMAR
TECHNICAL MEMBER

S.S GARG
JUDICIAL MEMBER

rv...