C/42579/2014

CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL CHENNAI

Regional Bench – Court No. III

Custom Appeal No.42579 of 2014

(Arising out of Order-in-Appeal C.Cus.No.1706/2014 dated 22.09.2014 passed by the Commissioner of Customs (Appeals), Chennai)

M/s. Monotech Systems Limited : **Appellant**
3rd Floor, City Centre,
66, Thirumalai Road,
T. Nagar,
Chennai 600017.

VERSUS

The Commissioner of Customs (Air) : **Respondent**
Air Cargo Complex,
New Custom House,
Meenambakkam
Chennai 600 027.

APPEARANCE:

Shri S. Murugappan, Advocate
For the Appellant

Shri S. Balakumar, AC (AR)
For the Respondent

CORAM : HON'BLE MS. SULEKHA BEEVI C.S., MEMBER (JUDICIAL)
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER(TECHNICAL)

FINAL ORDER NO. 40574 / 2020

DATE OF HEARING: 21.02.2020

DATE OF DECISION: 21.02.2020

PER : SULEKHA BEEVI C.S

M/s.Monotech Systems Limited, Chennai, the appellants herein imported in the course of their business "Scodix S 75 Digital Inkjet Printer" covered under the Bill of Entry dated 25.03.2014 from

M/s.Scodix Ltd., Israel. The above said imported goods of Scodix S 75 Digital Inkjet Printer was classified under heading as CTH 8443 32 50 and claimed duty as per the heading as 0% BCD, 10% CVD, 2% and 1% secondary and Higher Education cess along with 4% SAD. The department was of the view that the goods are correctly classifiable under CTH 84433910 and the Bill of Entry was reassessed accordingly. Against such order, the appellants filed appeal before the Commissioner (Appeals) who vide the order impugned herein upheld the classification ordered by the original authority. Hence this appeal.

2. On behalf of the appellant, the Ld. Counsel Shri S. Murugappan appeared and argued the matter. He submitted that the appellant claimed classification under CTH 84433250 as "Inkjet Printer" with 'Nil' Basic Customs Duty. At the time of import, the said classification claimed by the appellant was rejected by the department and in order to clear the goods so as to meet the sales plan, the appellant paid the duty as per the classification arrived by the department. Subsequently, the speaking order was passed by the original authority confirming the classification under 84433910. The appellants have claimed the classification under 84433250 on the grounds that heading at six digit level covers "printers capable of connecting to an automatic data processing machine or to a net work". How this has to be established is clearly specified in the HSN Notes under Chapter 8443 and has been further clarified in terms of Board's circular No.11/2008-Cus. dt. 1.7.2008. The catalogue of the

product imported by the appellant would specify these requirements as clarified in the HSN Notes read with the Board's circular. Further the World Customs Organization (WCO) in its classification of opinion has held that the similar digital inkjet printers are to be classified under 844332. In another case, wherein the very same goods imported by M/s.P.M. Digital Products, Chennai, the Commissioner (Appeals) after discussing the HSN Explanatory Notes as revised in 2012, has held that the correct classification is 84433250.

3. The Ld.A.R Shri S. Balakumar appeared and argued the matter. The appellants have declared the goods as 'Digital Inkjet Printer' falling under classification CTH 84433250. The goods were actually Digital Inkjet Press. It is a wrong nomenclature to call these items as Digital Inkjet Printers. On the website also, it can be seen that the goods are Digital Inkjet Press. In fact, the invoice has mentioned only "Scodix S 75 Digital Inkjet". This would indicate that the goods cannot be called as "Inkjet Printer". The goods are then to be treated as "Inkjet Machine". The appropriate classification of inkjet machines are CTH 84433910; that Customs Tariff has given correct heading at eight digit level for Inkjet Printer (84433250) and Inkjet Printing Machine. This would show that both are not one and similar. Further the goods covered under 84433250 and 84433910 should be capable of connecting to an automatic data processing machine or to a net work. The argument of the appellant that the goods imported which are Inkjet Press can be connected to the net work cannot be

accepted. The authorities below have rightly rejected the classification adopted by the appellants.

4. Heard both sides.

5. The invoice of the goods gives the description as under :

Ln	Order	Part Number	Part Description	HTS	Country of Origin	Qty	Unit Price	Total
1	SO140 00023	SCO-1300-60	Scodix 575 Digital Inkjet	84433200	Israel	1.0 ea	USD 161,00.00	161,00.000

The competing entries are as under :

8443 32 50 (by Appellant)	--- Ink Jet Printer	u	Free
8443 39 10 (by Dept.)	--- Ink-jet printing machine	u	Free

6. The main contention of the department that the goods cannot be described as Inkjet printer and cannot be classified under 84433250 is that it cannot be connected to an automatic data processing machine or net work. The catalogue of the goods furnished by the appellant along with the appeal in page 34 states that the item can be connected to net work by LAN TCP/ IP Cat. 5E and that cable is to be supplied by the customer. The term "connectable to an ADP Machine or to a net work" for the purpose of sub headings 8443.31 and 8443.32 has been explained in the Explanatory notes which is as under :

> "The criterion "capable of connecting to an automatic data processing machine or to a network" denotes that the apparatus comprises all the

> components necessary for its connection to a network or an automatic data processing machine to be effected simply by attaching a cable The capability to accept the addition of a component (e.g., a "card") that would then allow the connection of a cable is not sufficient to meet the terms of these subheadings. Conversely, that the component to which a cable would be connected is present but inaccessible or otherwise unable to effect a connection (e.g., switches must first be set) is not sufficient to exclude goods from these subheadings."

7. The Board's Circular No.11/2008-Cus., dt. 1.7.2008 has also clarified the same. It is stated in the circular that large format printers which satisfy the conditions of connectability as given in HSN Explanatory Notes (as above) are to be classified under tariff heading 84433250 as "Inkjet Printers". So the conclusion arrived by the authorities below that the goods are not Digital Inkjet Printers or that the goods are not capable of being connected to ADP or net work and therefore is not classifiable under 84433250 is against the clarification given by the Board.

8. The Ld. Counsel has also produced the copy of Order-in-Appeal No.180/2017 dt.14.3.2017 passed by the Commissioner of Customs (Appeals-II), Chennai in the case of P.M. Digital Products, Chennai the goods imported therein were also Digital Inkjet Printers Scodix 1200 vide Bill of Entry dated 7.6.2012. The appellant therein had classified the goods under 84433290. The Department issued show cause notice for reclassification under 8443390. On appeal, the Commissioner (Appeals) after considering the revised HSN Notes of 2012, wherein the criterion for capable of being connected to an automatic ADP machine or to a net work, has held that the goods are correctly classifiable under CTH 84433290.

9. From the discussions made above, after examining the HSN Explanatory Notes and the Boar's circular, we hold that goods are correctly classifiable under CTH 84433250. The order passed reclassifying 84433910 is erroneous and requires to be set aside which we hereby do. The impugned order is set aside. Appeal is allowed with consequential relief, if any, as per law.

(Operative part of the order pronounced in open court)

(SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)

(ANIL G. SHAKKARWAR)
MEMBER (TECHNICAL)

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