IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH, CHENNAI

C/00034/2009

[arising out of Order-in-Appeal No.C Cus. No.439/08 , dated 14.11.2008 passed by the Commissioner of Customs (Appeals), Chennai]

(PORT - IMPORT)
COMMISSIONER OF CUSTOMS, CHENNAI-I APPELLANT

Versus

M/s.OMNI AGATE SYSTEMS RESPONDENT

Appearance:

For the Appellant Shri B. Balamurugan, AC (AR)
For the Respondent Ms. S. Ragini, Adv.

CORAM:

Hon'be Smt. Sulekha Beevi C.S, Judicial Member
Hon'ble Shri Madhu Mohan Damodhar, Technical Member

Date of hearing/decision **11-08-2017**

FINAL ORDER NO. 41712 /2017

Per Bench:

The above appeal is filed by the department.

2. The brief facts are that the respondent filed ex-bond bill of entry for clearance of 445 nos. of ILP 45 Professional LCG Monitors of Sharp brand valued at Rs.76,82,361.46/- @ USD 850/pc. The department entertained doubt regarding description/classification of goods and, therefore, a query was given in the system directing the importer to furnish catalogues, manual and other technical documents. The respondent produced a colour printout detailing the specification of the goods, which described the goods as ILP-45 'Full 1920 x 1080 High Resolution 45" Professional LCD Monitor. It was stated to be a Super High Resolution High Definition LCD Panel With 45" Screen

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equivalent to a HD Panel, delivering high quality pictures of 500 cd/m^2 luminance, high contrast ratio and wide viewing angle of 170 degrees. It was stated to have Multiple Input Terminals i.e., a wide variety of AV/PC terminals' compatible with a wide range of inputs such as:

- Analog RGB input (15 pin mini D sub for a computer
- Digital RGB/DVI-D (24 Pin) inputs for high definition picture reproduction
- Video composite terminals (BNC connectors)
- S-Video input (DIN 4 pin) RS 232C
- Video component input Y, Pb/Cb, Pr/Cr
- Separate dedicated Audio Line in (stereo jack)

to meet a wide range of PC software as well as DVE and video.

2.1 The importers initially classified the goods under CTH85 31 2000 as indicator panels incorporating LCD or LED. Thereafter, they contended to be classified as CTH 85285100 as monitors used solely or principally in an ADP system of heading 8471. For CVD, the goods were classified as 'monitors' under this Chapter Heading.

2.2 The department was of the view that the goods are not solely or principally used for ADP equipment such as, a computer output device, since it had large display panel suitable for advertising purposes. Further, it can also take ordinary video inputs such as that of a DVD player/Video Camera /VCD player etc. Thus, it would fall under CTH 85285900 and would be liable to duty @ 10% BCD and CVD would be leviable on RSP.

3. After due process of law, the original authority held that the subject goods are classifiable under CTH 85285900 under 'Other' and denied the exemption of BCD claimed by respondents under CTH

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85285100 in terms of Notification No.24/2005 (Sl.No.17), dated 01.03.2005. Being aggrieved, appellant filed appeal before Commissioner (Appeals), who vide the order impugned herein, set aside the order observing that the goods would fall under the description of CTH 85285100, since the monitor has most of the characteristics principally of a Computer Monitor rather than a TV monitor. The department is before the Tribunal against such order.

4. On behalf of department, the learned Authorised Representative Shri B. Balamurugan reiterated the grounds of appeal. He vehemently argued that the goods are predominantly used as advertising media and not as a device solely used with ADP machine Especially, it can take wide range of inputs such as, RGH analog inputs, Video terminals such as, S-video and video composite terminals. Normal monitors solely used with ADP machine do not contain such various inputs and would contain only VGA/DVI-D connectors.

5. The learned counsel Ms S. Ragini appearing for the respondent supported the findings in the impugned order. She drew our attention to the Board Circular No.33/07, dated 10.09.2007. That a comparative chart was given in such Circular guiding to distinguish between Computer monitor and TV/Video monitor. That the Commissioner (Appeals) has relied upon the guidelines of this Circular to hold that the goods fall under the category of Computer monitors and are classifiable under 85285100. That Board Circular is binding upon the department and, therefore, the appellants have been rightly allowed the benefit of notification.

6. Heard both sides.

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7. The dispute revolves around the question as to what would be the characteristic of the goods:-

"Whether it is a Computer monitor or a TV/Video monitor?"

The Revenue presses upon the factors that the monitor is huge size of 45" and, therefore, can be used only as TV/Video for display of advertisements in Restaurants and cannot be used as a Computer monitor. On perusal of the impugned order, we see that as rightly pointed out by the learned counsel for appellant, the Commissioner (Appeals) has taken assistance of the Board Circular, dated 10.09.2007. A comparison ~~computer~~ chart is furnished in the Circular comparing TV monitor with that of Computer monitor. On a close perusal of this comparison, we do not find any disagreement with the view taken by Commissioner (Appeals) who has held that on the basis of description produced by appellant, the scales favour the classification under Computer monitor (CTH 85285100) rather than TV monitor. We, therefore, find no grounds to interfere with the impugned order.

The appeal is dismissed.

(Operative part of the order pronounced in open court on **11.08.2017**)

(MADHU MOHAN DAMODHAR)
TECHNICAL MEMBER

(SULEKHA BEEVI C.S)
JUDICIAL MEMBER

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सहायक रजिस्ट्रार / Asst. Registrar
(CESTAT)
CHENNAI

ksr
14-08-2016