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

C/215/2005

(Arising out of Order-in-Appeal C. Cus. No.823/2004 dated 16.12.2004 passed by the Commissioner of Customs (Appeals), Chennai)

Commissioner of Customs (Export), Chennai Appellant

Vs.

M/s. Samsung India Ltd. Respondent

Appearance

Shri B. Balamurugan, AC (AR) for the Appellant
Ms. Swarupam, Advocate for the Respondent

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing / Decision: **26.04.2017**

Final Order No. 40650/2017

Per Ms. Sulekha Beevi C.S.

The above appeal is filed by Revenue against the order passed by learned Commissioner (Appeals) who has granted benefit of exemption under Notification No. 21/2002-Cus. dated 1.3.2002 to the respondents.

2. The respondents imported a consignment of toner cartridges and filed Bill of Entry No. 664315 dated 6.8.2004

Sulekha Beevi

Customs, Excise & Service Tax Appellate Tribunal and claimed 'Nil' rate of duty in terms of Notification No.21/2002 dated 1.3.2002 as the toner cartridges being part of the printer. The same was classified under CTH 8473.30. The department denied the benefit on the ground that those are not parts of printers and took a view that they are only accessories of printers. Thus, the benefit of exemption was denied. The appellant paid the duty under protest and after due process of law, the adjudicating authority confirmed the duty liability vacating the protest. In appeal, Commissioner (Appeals) set aside the order passed by the adjudicating authority and granted relief to the respondents. Hence the present appeal by Revenue.

3. On behalf of the appellant, learned AR Shri B. Balamurugan submitted that the toner cartridges can be considered as accessories only and not as parts of the printer. He relied upon the decision in the cases of M/s. Kores (India) Ltd. – 1977 AIR 132 and Wipro Infotech Ltd. Vs. Commissioner of Central Excise, Bangalore – 1994 (69) ELT 82 (Tribunal) and submitted that in Kores (India) Ltd. supra, the Hon'ble Supreme Court had considered that ribbons used in typewriter are accessories and does not form part of the typewriter. Hence, the toner cartridge also has to be considered as accessories and not as parts of the printers.

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4. The learned counsel Ms. Swarupam appearing for the respondent submitted that the issue stands decided in their own case by the very same ~~Bench~~ Tribunal vide Final Order No.40307/2016 dated 22.2.2016. Whether accepted/appeal filed?

5. We have heard submissions made before us. The Tribunal in the final order stated supra has analyzed and discussed the very same issue in the respondent's own case. Following the judicial discipline as also to keep the consistency of decisions, we follow the said decision of the Tribunal and hold that the toner cartridges are parts of the printer and the impugned order does not call for interference.

6. The impugned order is upheld and the appeal filed by Revenue is dismissed.

(Dictated and pronounced in open court)

(**MADHU MOHAN DAMODHAR**)
Member (Technical)

(**SULEKHA BEEVI**)
Member (Judicial)

Rex

Customs, Excise & Service Tax Appellate Tribunal

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