

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH, COURT NO. 1**

**CUSTOMS APPEAL NO. 51933 OF 2022
WITH
CUSTOMS STAY APPLICATION NO. 50486 OF 2022
AND
CUSTOMS CROSS NO. 50657 OF 2022**

[Arising out of Order in Appeal No. CC(A) Cus/D-1/Import/NCH/05/2022-23 dated 08.04.2022 passed by the Commissioner of Customs (Appeals), New Delhi]

**PRINCIPAL COMMISSIONER, CUSTOMS -NEW
DELHI (ACC IMPORT)**

Appellant

New Customs House,
New Delhi-110037

Vs.

M/S PRINGLE HOMEWARE (P) LTD

Respondent

5, 1st Floor, Pusa Raod,
New Delhi-110005

Appearance:

Shri Rajesh Singh, Authorised Representative for the department/ appellant

Shri Prachit Mahajan and Shri Shubham Jaiswal, Advocates for the respondent

CORAM:

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT

HON'BLE MR. P. V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 58545 /2024

Date of Hearing : 08/08/2024

Date of Decision : 09/09/2024

P. V. SUBBA RAO:

1. This appeal and the stay application have been filed by the Revenue to assail the Order in Appeal dated 08.04.2022¹ passed by the Commissioner (Appeals) whereby he set aside the order in original dated 13.08.2021 passed by the Deputy Commissioner and allowed the

1 Impugned order

appeal of the respondent herein. The stay application is filed by the Revenue to seek stay of this order. This application is infructuous since the appeal itself has been taken up for hearing. The Cross objection has been filed by the respondent to oppose the appeal and pray that the impugned order may be upheld and the Revenue's appeal may be dismissed. No prayer for any additional relief has been made by the respondent in the cross objection.

2. We have heard Shri Rajesh Singh, learned authorised representative appearing for the department and Shri Prachit Mahajan, learned counsel for the respondent and perused the records.

3. The respondent filed Bill of Entry dated 20/05/2021 to clear the goods declared as (1) Kettle body 1.8L, (2) Plastic Lid (3) Thermostat (4)Base Plastic Top and (5) base Plastic Bottom. It self-assessed the Bill of Entry classifying the goods as parts of electric kettle under Customs Tariff Item² 8516 90 00. The goods were imported at the Air Cargo Complex, New Delhi but the Bill of Entry was assessed by the Faceless Assessment Group³ at Air Cargo Customs, Mumbai-III to which the Bill of Entry was marked by the Customs Electronic Data Interchange⁴ system. The assessing officer took the view that the imported goods were classifiable as complete kettle under CTI 8516 71 00 in terms of Rule 2(a) of the General Rules of Interpretation of Import Tariff⁵.

2 CTI
3 FAG
4 EDI
5 GIR

4. Aggrieved by this assessment the respondent filed an appeal before the Commissioner (Appeals) who set aside the order in original passed by the Deputy Commissioner and held that the imported goods are classifiable as parts of electric kettle only and not as electric kettle.

5. Aggrieved by this order of Commissioner (Appeals), Revenue is before us.

6. The short question to be decided by us is whether in terms of GIR 2(a) the imported goods should be classified as electric kettle as asserted by the Revenue or they should be classified only as parts of electric kettle as held by the Commissioner (Appeals).

Submission by the Department

7. The case of the department is that the imported goods have the essential character of electric kettle because it includes kettle body, Plastic lid, thermostat, base plastic top and base plastic bottom. If these are assembled they have the essential characteristics of the electric kettle. The essential character of an electric kettle is to heat the liquid inside through electro thermic mechanism and for this purpose the heating element is included under kettle body. The bottom part provides electric connection. The thermostat monitors electric connection and when appropriate temperature is reached, it switches off the heating. Therefore, in terms of GIR 2(a) it should be classified as electric kettle. GIR 2(a) reads as follows:

"Rule 2: (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete

or finished (or failing to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.”

8. What is evident from the above is that if goods are incomplete or unfinished but have the essential characteristics of complete or finished articles they should be classified as a complete or finished article.

9. Further even if the goods are unassembled or dis-assembled, i.e. in a completely knocked down (CKD) or semi knocked down (SKD) condition they should be classified as finished article. Further, even if all the parts which were imported together do not constitute a complete article but constitute only an incomplete article if assembled, but such article has the essential characteristics of the complete article then such parts should also be classified under the heading as the complete article.

Submission by the respondent

10. The respondent manufactures electric kettles for which purpose they imported certain parts but there are also other essential parts such as switch assembly of kettle, controller with sensor, electric wire, ISI plug, Screw, Gift Box, Master Carton, rating label from the domestic market without which the electric kettle cannot made functional. It is only when all the parts which are imported as well as those which are domestically procured are assembled will the article get its essential characteristics and will be marketable as electric kettle. Therefore, the parts imported by the respondent deserve to be classified only as parts of electric kettle and they cannot be classified as an electric kettle by applying GIR 2(a).

11. We have considered the submissions advanced by both the sides.

12. The short question to be answered as to whether in the facts of this case by applying GIR 2(a), the imported goods can be classified as electric kettle or not. The finding of the Deputy Commissioner on this issue was as follows:

"12. I find that the importer in his submission has not denied the facts mentioned above. His plea is that import consignment lack assembly of kettle controller with sensor, electric wire, ISI plug and screw. I find that the electric cable and plug is a medium of providing connectivity to the kettle with the electric connection with wall socket. These cables and plugs are found to be of two types, one which is connected permanently with the electric appliance on one side and other type is which is not connected with the appliance, but have connectors to connect it with the electric appliance whenever required. In the present case, the bottom part of the electric kettle serves the same purpose. Therefore, it can be said that the electric connecting cable could not be termed to be an integral part of an electric appliance. As regards the sensor, the work of sensor is to provide an additional function of automation to any appliance with its functioning which again not be termed to be a part essential for functioning of the appliance. As the thermostat which itself functions as sensor of temperature has been imported in the consignment, sensor mentioned by the importer can only be termed as an additional function providing part. Similarly, screws also do not add to the essential character of the goods. It is required for assembly of the goods, which is always required in case of goods Imported in unassembled form."

13. The finding of the Commissioner (Appeals) on this question is as follows:

"5.7. I also find merit in the contention of the appellant that the imported goods, i.e. Kettle Body, Plastic Lid, Thermostat, Base Plastic Top and Base Plastic Bottom cannot be put together by means of simple fixing device or by riveting or welding. In fact, the electric kettle is incomplete without Assembly of Kettle controller with sensor, Electric wire and ISI Plug etc. which are procured by the appellant from the domestic market and put together by the appellant in India."

14. As per GIR 2(a) goods in CKD or SKD condition deserve to be classified as finished articles. Similarly, unfinished or incomplete articles also deserve to be classified as complete or finished articles. If they are imported as parts which, if assembled, will not make the complete article but only make an incomplete article but such incomplete article will have the essential characteristics of the complete article such parts should also be classified as complete articles. It is undisputed that the plastic body, heating element, lid are imported through the Bill of Entry. According to the appellant in addition kettle controller, sensor, electric wire, plug , carton etc., are required to assemble these into an electric kettle and put it in the market. It is undisputed that without wire and plug and the sensor the electric kettle will be incomplete. However, what needs to be seen is whether such incomplete electric kettle will have the essential characteristics of an electric kettle. The essential characteristics of an electric kettle is to heat the water using electricity to turn off heating as soon as the water attaining the required temperature. Heating element and thermostat and the body in the water is to be heated are all imported. The sensor provides an element of automation. In this case, insofar as the temperature is concerned, the controller thermostat itself functions as the sensor. Therefore, the sensor which the respondent procures domestically only adds some additional functionality. Similarly, the screw, plugs, wire etc., are minor parts without which also the kettle will have the essential characteristics of complete kettle although it will be incomplete. In fact, the Commissioner (Appeals) also recorded that the electric kettle will be incomplete without these parts without which it cannot be put in the market as an electric kettle. He, has lost sight

of the fact that kettle incomplete also should be classified as complete kettle as per GIR 2(a). He misunderstood this rule and felt that unless all parts are imported together, an incomplete article or parts which constitute an incomplete article but which has the essential features of an complete article cannot be classified as a complete article which is contrary to GIR 2(a).

15. We, therefore, have no hesitation in holding that in the facts of this case that the Commissioner (Appeals) erred in setting aside the order in original passed by the Deputy Commissioner.

16. In view of above, the impugned order is set aside and the classification by Deputy Commissioner in his OIO is restored and the appeal filed by the revenue is allowed. The Cross-Objections filed by the respondent are dismissed. The Stay Application filed by the Revenue is dismissed as infructuous.

[Order pronounced on **09/09/2024**]

(JUSTICE DILIP GUPTA)
PRESIDENT

(P. V. SUBBA RAO)
MEMBER (TECHNICAL)