IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. III

Customs Appeal No. C/464/2009-CU[DB]
[Arising out of Order-In-Appeal No. CC(A)Cus/I & G/82/2009 dated 13.04.2009 passed by Commissioner(Appeals) New Delhi]

For approval and signature:
Hon'ble Mr. S.K. Mohanty, Member (Judicial)
Hon'ble Mr. V. Padmanabhan, Member (Technical)

M/s. Sennheiser Electronics India Pvt. Ltd. ...Appellant

Vs.

C.C. New Delhi …Respondent

Appearance:
Mr. Abhinav Jaganathan, (Advocate) for the Appellant
Mr. Yogesh Agarwal (DR) for the Respondent

CORAM:
Hon'ble Mr. S.K. Mohanty, Member (Judicial)
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Date of Hearing/ Decision.08.05.2017

Final Order No. 53358/2017

Per S. K. Mohanty:

This appeal is directed against the impugned order dated 13.04.2009 passed by the Commissioner of Customs (Appeals), New Delhi.

2. Brief facts of the case are that the appellant had imported Wireless Micro Phone falling under Chapter sub heading 85255050 of the Customs Tariff Act, 1975. The appellant filed the bill of entry, claiming the benefit of Notification No. 21/2002-Cus dated 01.03.2002 (serial No. 244, Item No. 26, Item Serial No. 9). The benefit of Notification is only available to Micro Phone and not to wireless Micro Phone as these two items are separately classifiable as per the Tariff Act, under heading 85181000 and 85255050 respectively.

3. Ld. Advocate appearing for the appellant submits that the Notification dated 01.03.2002 exempts the Micro Phones falling under Chapter 85 of the Tariff Act. He further submits that since classification sought by the appellant and determined by the department falls under Chapter 85 of the Tariff Act, as per the entry in the Notification dated 01.03.2002, the benefit of exemption should also be applicable to Wireless Micro Phone.

4. On the other hand, the Ld. AR appearing for the respondent reiterates the findings recorded in the impugned order.

5. Heard both the sides and perused the records.

6. We find that micro phones are classified under both Chapter Heading 8518 as well as 8525 of the Tariff Act, 1975. Since, the exemption Notification dated 01.03.2002 exempts 'Micro Phones' and there is no specific mention on the category to which the exemption should be extended, we are of the view that the imported goods in this case i.e. 'wireless micro phones' should get the benefit of Notification dated 01.03.2002 for the purpose of Customs duty exemption.

7. Therefore, we do not find any merits in the impugned order. Accordingly, after setting aside the same, we allow the appeal in favour of the appellant.

(Dictated and pronounced in the open court)

(V. Padmanabhan)
Member(Technical)

(S. K. Mohanty)
Member (Judicial)

Neha