

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing/decision: 11.01.2018

Appeal No. E/03186-03189/2007 EX (DB)
E/CROSS/00102/2008

[Arising out of Order-in-Appeal No. 09-10-11-12/2007 dated 16/11/2017 passed by Commissioner of Central Excise-Bhopal]

CCE, Bhopal

... Appellant

Vs.

Birla Ericsson Optical Ltd.
Vindhya Telelinks Ltd.

... Respondent

Appearance:

Present Mr. H. Saini, AR for the appellant

Present Mr. Narender Sharma, Advocate for the respondent

Coram: Hon'ble Justice Dr. Satish Chandra, (President)
Hon'ble, V. Padmanabhan (Technical Member)

FINAL ORDER No. 50142-50145/2018

Per Justice Dr. Satish Chandra

1. The present four appeals have been filed by the Revenue against the Order-in-Original No. 01/2017 dated 28/08/2007.
2. In all the four appeals, the issue is common which pertains to the concession available under Custom Notification No. 84/05 dated 01/03/2005. The concession under Customs Notification is predicated by the classification of emerging product in a Central Excise Unit. After proceedings, the classification was settled by the Central Excise Authority vide an adjudication order to classify the product under Central Excise Tariff Act 8544. This impact on availability of Customs concession as per the above mentioned notification which was denied.
3. During the course of arguments, Shri Narender Sharma on behalf of the respondent submits that they have moved the Hon'ble

Madhya Pradesh High Court initially, challenging the show cause notice and later, the Review Order passed by the Committee of Chief Commissioners of Customs and Central Excise, Bhopal. Matter is still pending before the Hon'ble High Court in the Writ Petition No. 12349/2006 where an interim order has been passed. Both parties have agreed that without the final verdict of the Hon'ble High Court, present appeals cannot be decided.

4. In view of above, the liberty is granted to the appellant to come again after having the final verdict from the Hon'ble High Court, but within the prescribed time, if advised so.
5. With the aforesaid liberty, the appeals filed by the Department are disposed of.

[Order Dictated and Pronounced in the open court]

(V. Padmanabhan)
Member (Technical)

(Justice Dr Satish Chandra)
President

Rekha