

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH

Custom Appeal No. 86624 of 2021

(Arising out of Order-in-Appeal No. 498 (Gr.V)/2021 (JNCH)/Appeals
dated 22.06.2021 passed by the Commissioner of Customs (Appeals),
Mumbai II, JNCH)

M/s. Monotech System Ltd.
8B, “Chaitanya Exotica”
#24, Venkatnarayana Road,
T. Nagar, Chennai

.....Appellant

Vs.

Commissioner of Customs, Nhava Sheva V
JNPT, Custom House,
Nhava Sheva

.....Respondent

APPEARANCE:

Shri Derric Sam, Advocate for the appellant
Shri Ramesh Kumar, AC (AR) for the respondent

CORAM: **Hon’ble Mr C J Mathew, Member (Technical)**
 Hon’ble Ajay Sharma, Member (Judicial)

FINAL ORDER No: A/85512 / 2022

DATE OF HEARING : 12-05-2022

DATE OF DECISION : 06-06-2022

PER: C J MATHEW

This appeal lies against order-in-appeal no. 498 (Gr.V)/2021
(JNCH)/Appeals dated 22nd June 2021 of Commissioner of Customs
(Appeals), Mumbai II, Jawaharlal Nehru Custom House, Nhava Sheva

for having upheld the determination of classification of imported goods against tariff item 8443 3910 of First Schedule to Customs Tariff Act, 1975 by the assessing authority with consequent liability of duties of customs.

2. Learned Counsel for appellant intimates that, in the first quarter of 2016, bills of entry no. 3801224/04.01.2016, 4653683/21.03.2016, 4729636/29.03.2016, 4733178/29.03.2016 and 4730781/29.03.2016, declaring the imported goods as 'digital inkjet printer SCODIX S75 Part No. SCO-130' and valued in total at ₹4,67,71,484/-, had been filed by M/s Monotech System Ltd. for clearance at nil rate of duty available to goods conforming to tariff item 8443 3250 of First Schedule to Customs Tariff Act, 1975 and, upon protest against revision of classification, speaking order was issued by assessing authority to fasten duty liability on them.

3. Learned Counsel submits that, in a previous import of theirs at Chennai that had undergone similar revision, the Tribunal, in *Monotech Systems Ltd. v. Commissioner of Custom (AIR), Chennai [2020 (373) ELT 718 (Tri-Chennai)]*, had upheld the correctness of classification declared by them. He further cites clarification of Central Board of Excise and Customs in circular no. 11/2008-Cus dated 1st July 2008, and relied upon in the decision of the Tribunal, in

support of his contention against the classification adopted by customs authorities.

4. Learned Authorised Representative, while fairly admitting that the goods impugned in this dispute are the same as that involved in the decision of the Tribunal in *re Monotech Systems Ltd.*, contends that the arguments of Revenue had not been properly construed therein owing to which it may not be adopted as binding precedent.

5. It is seen from the decision of the Tribunal in *re Monotech Systems Ltd* that goods of identical description had been imported from the same supplier and, following the attempt of assessing authorities to revise the classification similar to that undertaken in the present dispute, carried in appeal, was held to be

‘6. The main contention of the department that the goods cannot be described as Inkjet printer and cannot be classified under 8443 32 50 is that it cannot be connected to an automatic data processing machine or network. The catalogue of the goods furnished by the appellant along with the appeal in page 34 states that the item can be connected to network by LAN TCP/ IP Cat. 5E and that cable is to be supplied by the customer. The term “connectable to an ADP Machine or to a network” for the purpose of sub-headings 8443.31 and 8443.32 has been explained in the Explanatory notes which is as under :

“The criterion “capable of connecting to an automatic data processing machine or to a network” denotes that the

apparatus comprises all the components necessary for its connection to a network or an automatic data processing machine to be effected simply by attaching a cable. The capability to accept the addition of a component (e.g., a “card”) that would then allow the connection of a cable is not sufficient to meet the terms of these sub-headings. Conversely, that the component to which a cable would be connected is present but inaccessible or otherwise unable to effect a connection (e.g., switches must first be set) is not sufficient to exclude goods from these sub-headings.”

7. The Board’s Circular No. 11/2008-Cus., dated 1-7-2008 has also clarified the same. It is stated in the circular that large format printers which satisfy the conditions of connectability as given in HSN Explanatory Notes (as above) are to be classified under Tariff Heading 8443 32 50 as “Inkjet Printers”. So the conclusion arrived by the authorities below that the goods are not Digital Inkjet Printers or that the goods are not capable of being connected to ADP or network and therefore is not classifiable under 8443 32 50 is against the clarification given by the Board.

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9. From the discussions made above, after examining the HSN Explanatory Notes and the Board’s circular, we hold that goods are correctly classifiable under CTH 8443 32 50. The order passed reclassifying 8443 39 10 is erroneous and requires to be set aside which we hereby do. The impugned order is set aside. Appeal is allowed with consequential relief, if any, as per law.’

6. The findings are clear enough to be binding precedent. We find that the argument put forth by Learned Authorised Representative is

not tenable inasmuch as even with the exclusion of the observation of the Tribunal on the arguments preferred by Revenue therein, the findings of the Tribunal that follow have applied the description in the tariff to the goods under import to arrive at its conclusion.

7. It is seen from the description corresponding to the two rival tariff items that the distinction between 'inkjet printer' as claimed by appellant, and 'ink-jet printing machine' as re-assessed by the assessing authorities, is the crux of the dispute. The two tariff items though under the same heading part ways at the next level of classification with that of the appellant coming within '*other printers, copying machine and facsimile machines, whether or not combined*' corresponding to stand-alone printers capable of connecting to an automatic data processing machine or a network which the tariff item preferred by customs authorities does not require. The argument of Learned Authorised Representative that the product literature shows the incorporation of computer within it to fulfil the same condition does not really pass muster with us because the capacity to be connected to automatic data processing machine or network is not the same as fitment of internal controls system for the operation of the machinery. The two description differ on capability of external connection implying that it is a printer with possibility of varied input. It is in the light of this that the Central Board of Excise and Customs

was compelled to issue clarification referred to in the decision of the Tribunal in *re Monotech Systems Ltd.*

8. In view of the classification of the same product by the Tribunal in a dispute of the very same importer referred to *supra*, the classification adopted by the original authorities and sustained in the impugned order does not survive. Accordingly, the appeal is allowed by setting aside the impugned order.

(Order pronounced in open court on 06.06.2022)

(Ajay Sharma)
Member (Judicial)

(C J Mathew)
Member (Technical)