CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 902 of 2010

(Arising out of Order-in-Appeal No. 201 to 203 (G.R.VB)/2010(JNCH)/IMP-192 to 194 dated 26.08.2010 passed by the Commissioner of Customs (Appeals), Mumbai-II)

Commissioner of Customs (Import), Nhava Sheva .... **Appellant**
Jawaharlal Nehru Custom House,
Post Uran, District Raigad,
Sheva- 400 707.

Versus

Samsung India Electronics Pvt. Ltd. .... **Respondent**
B-1, Sector-31, Phase-II,
Noida, Uttar Pradesh

AND

Customs Appeal No. 193 of 2012

(Arising out of Order-in-Appeal No. 201 to 203 (G.R.VB)/2010(JNCH)/IMP-192 to 194 dated 26.08.2010 passed by the Commissioner of Customs (Appeals), Mumbai-II)

Commissioner of Customs (Import), Nhava Sheva .... **Appellant**
Jawaharlal Nehru Custom House,
Post Uran, District Raigad,
Sheva- 400 707.

Versus

Samsung India Electronics Pvt. Ltd. .... **Respondent**
B-1, Sector-31, Phase-II,
Noida, Uttar Pradesh

WITH

Customs Appeal No. 194 of 2012

(Arising out of Order-in-Appeal No. 201 to 203 (G.R.VB)/2010(JNCH)/IMP-192 to 194 dated 26.08.2010 passed by the Commissioner of Customs (Appeals), Mumbai-II)

Commissioner of Customs (Import), Nhava Sheva .... **Appellant**
Jawaharlal Nehru Custom House,
Post Uran, District Raigad,
Sheva- 400 707.

Versus

Samsung India Electronics Pvt. Ltd. .... **Respondent**
B-1, Sector-31, Phase-II,
Noida, Uttar Pradesh

Appearance:

Shri S.K. Hatangadi, Authorized Representative for the Appellant

Shri Akhilesh Kangasia a/w Ms Apoorva Parihar, Advocates for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85032-85034/2024

Date of Hearing: 04.01.2024
Date of Decision: 04.01.2024

Per: S.K. MOHANTY

Heard both sides and examined the case records.

2. The issue involved in these appeals relates to the classification of goods namely "LCD Panels" imported by the respondents during the period 2009. The respondents have claimed the classification of the said goods under Heading 90.13 (Tariff Item 9013 80 10) of the Customs Tariff referred as "Liquid Crystal Devices" and claimed benefit of exemption from payment of Basic Customs Duty (BCD) under serial no. 29 of Notification No. 24/2005-Customs dated 01.03.2005. However, the Department did not agree to the classification claimed by the respondents and classified the said goods under CTH 8529. Since the adjudication order passed by the Department has changed the classification of the subject goods, the said order was appealed against by the respondents before the learned Commissioner (Appeals), who vide order dated 26.08.2010 had sustained the classification claimed by the respondents under CTH 9013. In support of acceptance of such classification, the learned Commissioner (Appeals) has relied upon decision of this Tribunal in the case of Videocon Industries Ltd Vs. Commissioner of Central Excise, Aurangabad reported in 2009 (92) RLT 383 (CESTAT-Mumbai). The order dated 26.08.2010 passed by the learned Commissioner (Appeals) was assailed by the Revenue by way of filing an appeal before the Tribunal. The Revenue has contended that the imported goods are LCD modules and not LCD Panels, since they are attached with driver, circuit, backlight unit, circuitry PCB and inverter

etc. and thus, they are classifiable under CTH 8529 as parts of Television.

3. We find that, the order passed by the Tribunal in the case of *Videocon Industries (supra)* was appealed against by Revenue before the Hon'ble Supreme Court numbered as Civil Appeal No. 5622 of 2009 with Civil Appeal No. 5026 of 2022. Vide order dated 29.03.2023, the Civil Appeals filed by the Revenue were dismissed by the Hon'ble Apex Court, holding that the product in question should be appropriately classifiable under CTH 9013. Since the issue arising out of the present dispute is no more open for any debate, in view of the judgment of Hon'ble Supreme Court referred supra, we are of the view that the present appeals filed by the Revenue cannot be sustained for a decision with regard to the classification claimed by them under CTH 8529.

4. Therefore, we do not find any merits in the appeal filed by the Revenue and accordingly, the same are dismissed.

(Dictated and pronounced in open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

Sinha