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2017 (353) E.L.T. 251 (Tri. - Chennai)

IN THE CESTAT, SOUTH ZONAL BENCH, CHENNAI
 S/Shri D.N. Panda, Member (J) and Madhu Mohan Damodhar, Member (T)

AGFA INDIA PVT. LTD.*Versus***COMMISSIONER OF CUSTOMS, CHENNAI***Final Order No. 40517/2017, dated 16-3-2017 in Appeal No. C/446/2005-DB*

Digitizer - 'Computer Parts Input-Output Unit EOV Digitizer' - Classification of - Imported equipment used to digitalize X-ray to a display for glance of technical experts - Such equipments classifiable under Tariff Item 9022 19 00 of Customs Tariff Act, 1975 as 'Digitalized X-ray equipment' and not under Tariff Item 8471 41 90 ibid as 'Automatic Data Processing Machines' or part thereof. [para 6]

Classification of goods - End-user not the criteria for deciding classification - It is decided based on nature and character of goods mentioned in specific Tariff Entry. [para 6]

Interpretation of Statute - Customs and Central Excise Tariff - Specific entry would prevail over general entry for classification of goods. [para 6]

Appeal dismissed

REPRESENTED BY : Shri C. Saravanan, Advocate, for the Appellant.
 Shri A. Cletus, ADC (AR), for the Respondent.

[Order per : D.N. Panda, Member (J)]. - Relying on copy of Bill of Entry available at page 14 of the appeal folder, Id. counsel says that appellant imported "Computer Parts Input-Output Unit EOV DIGITIZER" which is nothing but substitute of dark room of X-ray laboratory to depict picture of an object. When it depicts the picture allowing printing thereof, it serves the purpose of Customs Tariff Heading 8471 41 90. The said heading deals with "Automatic data processing machines and units thereof; magnetic or optical readers machines for transcribing data on to data media in coded form and machines for processing such data, not elsewhere specified or included". The goods imported by appellant is digitizer meant for depicting digitalized object.

2. Explaining further how digitalization is made, appellant says that the imported goods was digitizer as per copy of the invoice at page 13 of the appeal folder and its technical details are available at page 15 onwards. When the digitalization is transmitted to the machine that shall serve the purpose of 'automatic data processor' to bring the goods into the purview of CTH 8471 41 90.

3. In order to strengthen his argument, Id. counsel relied on pages 23 and 35 of the paper book to show that goods that came to India was a digitizer as per description appearing in section XVII of HSN dealing with CTH 9022. That explains the character of apparatus based on the use of X-rays. Further, section XVI of HSN dealing with Chapter 84 explains what is data processing machine covered by CTH 8471. Considering such notes, appellant's goods is classifiable under Chapter 84 of the Customs Tariff Act, 1975.

4. Revenue, on the other hand, contends that the goods imported serves the purposes of digitalized x-ray as per technical literature available on record and that has to squarely fall under CTH 9022 19 00. X-ray is either captured in a film or translated in digitalized form to a display for glance of the technical experts. What that is necessary for the tariff entry is to ascertain the useful object it serves by its nature as is envisaged by CTH 9022 which deals with "Apparatus based on the use of X-rays or of alpha, beta or gamma radiations, whether or not for medical, surgical, dental or veterinary uses, including radiography or radiotherapy apparatus, X-ray tubes and other X-ray generators, high tension generators, control panels and desks, screens, examination or treatment tables, chairs and the like".

5. Further submission of Revenue is that once the X-ray is captured in a digitalized form, the object is depicted on the display for visibility thereof. Therefore the goods that was brought was not computer or computer apparatus. That is called as "Digitalized X-ray equipment". In view of very specific entry under Chapter 90 which covers goods with specific purpose, it

merits classification thereunder.

6. On the submission of Revenue and on perusal of rival entries, it is made clear that specific entry relied upon by Revenue demonstrates the nature and character of the goods to attract it to the category it serve purposes of that entry. Although end-user is not the criteria for classification, but the very character and nature of goods when subscribe to a specific entry, that prevails over a general entry for classification. Therefore the classification sought by Revenue under CTH 9022 is appropriate for which appeal is dismissed.

(Dictated and pronounced in open Court)

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