(1997) 10 SC CK 0036

In the Supreme Court Of India

Case No : Civil Appeal No. 13111 of 1996

Collector of Customs, Bombay APPELLANT

Vs

Delhi Press Samachar Patra RESPONDENT

Date of Decision : 15-10-1997

Acts Referred:

Citation : (1999) 80 ECR 2 : (1997) 96 ELT 222 : (1998) 7 JT 620 : (1998) 9 SCC 360

Hon'ble Judges : S. C. Agrawal, J;B. N. Kirpal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This appeal is directed against the judgment dated 21-9-1995 passed by the Customs, Excise and Gold (Control) Tribunal (hereinafter referred to as "the Tribunal"). The respondent had imported automatic plate processor. The respondent claimed that the said article was classifiable under Heading 84.34 of the Customs Tariff. The Assistant Collector of Customs took the view that the said article was classifiable under Heading 90.10. The appeal filed by the respondent was, however, allowed by the Collector (Appeals) who held that the article was classifiable under Heading 84.34. The said view of the Collector (Appeals) has been affirmed in appeal by the Tribunal.

2. Heading 84.34 includes "machinery, apparatus and accessories for type-founding or type-setting" as well as "printing type, impressed flogs and matrices, printing blocks, plates and cylinders". Under Heading 90.10 were included "apparatus and equipment of a kind used in photographic or cinematographic laboratories, not falling within any other heading in that chapter; photocopying apparatus and thermo copying apparatus (whether incorporating an optical thermo copying apparatus); screens for projectors". In the present case the Tribunal has found:

"In this case, the goods under consideration is designed only for automatic developing, washing, gumming and drying of photosensitised plates which are already exposed through the agency of a light source in another independent unit, called the plate exposure unit. It is not the department''s case that the goods imported incorporate in it a plate exposure unit as well, wherein photographic principle is used."

3. The Tribunal has distinguished its earlier decisions upholding the classification of automatic plate processor under Heading 90.10 on the ground that where the plate processor unit is combined with exposure unit it has to be classified under Heading 90.10 since the principle of photography was involved in the exposure unit. The learned counsel for the appellant has invited our attention to another decision of the Tribunal in Thomson Press (I) Ltd. v. Collector of Customs, decided on 28-8-1995 by a three-member Bench of the Tribunal. In that case the functioning of the plate processor that had been imported was based on photographic principles and, therefore, it was held to be classifiable under Heading 99.10 of the Customs Tariff. The said decision has no application to the present case because the plate processor imported by the respondent does not incorporate in it a plate exposure unit as well wherein the photographic principle is used.

4. For the reasons aforementioned, we do not find any merit in this appeal and the same is accordingly dismissed. No order as to costs.