(2025) 01 CESTAT CK 1547

In the Customs, Excise And Service Tax Appellate, New Delhi

Case No : Customs Appeal No. 51766 of 2022

Principal Commissioner, Customs -New Delhi @APPELLANT @Hash Havells India Ltd @RESPONDENT

Date of Decision : 02-01-2025

Acts Referred:
Customs Act, 1962 — Section 12, 28AA, 28(4), 110, 111(m), 112(a)(ii), 114A, 125

Citation : (2025) 01 CESTAT CK 1547

Hon'ble Judges : Dr. Rachna Gupta, Member (J);Hemambika R. Priya, Member (T)

Bench : Division Bench

Advocate : Rajesh Singh

Final Decision : Dismissed

Judgement

Hemambika R. Priya, J

1. The present appeal has been filed by the Department to assail the Order in Appeal - CC-A-CUS-D-II-PREV-345-2022-23, dated 13.05.2022 passed by the Commissioner of Customs (Appeals), New Delhi wherein the Commissioner (Appeal) has allowed the appeal of the Respondent-Assessee.

2. The brief facts of the case are that M/s Havells India Ltd., the Respondent had imported 'MCPCB 6349 Prideplus New 20W 5.8X1127 MM (CELZLX0760) Unmounted printed Circuit Board for the manufacturing of LED Lamps' vide Bill of Entry No. 3068449 dated 02.05.2019 by classifying the said goods under CTH 85340000. The declared assessable value of the goods was Rs. 31,09,067/-. Acting upon specific intelligence that the appellant mis-declared the goods imported under Bill of Entry No. 3068449 dated 02.05.2019 (declared item was MCPCB 6349 Pride plus New 20W 5.8X1127MM (CELZLX0760) (un-mounted Printed Circuit Board) for the manufacturing of LED lamps), the officers of Customs Preventive, New Delhi examined the goods on 13.05.2019 under Panchnama. On Examination, the goods covered under Bill of Entry No. 3068449 dated 02.05.2019 appeared to be mis-classified. Therefore, the goods covered under above said Bill of Entry No. 3068449 dated 02.05.2019 were seized under

Section 110 of the Customs Act, 1962 on reasonable belief that the same appeared to be liable for confiscation under the provisions of the Customs Act, 1962. Representative samples were also drawn for further enquiry in the matter. During investigation, it was observed that the goods mentioned in the Bill of Entry No. 3068449 dated 02.05.2019 i.e. "MCPCB 6349 Pride plus New 20W 5.8X1127MM (CELZLX0760) (un-mounted Printed Circuit Board) for the manufacturing of LED lamps" appeared to be more appropriately classifiable under CTH 94054090 of Customs Tariff Act, whereas, the importer classified these items under CTH 85340000 of Schedule 1 of Customs Tariff Act, 1975, on NIL rate of Basic Customs Duty vide Customs Notification No. 24/2005 dated 01.03.2005. Accordingly, a show cause notice dated 17.06.2019 was issued to the respondent proposing demand of differential duty of Rs. 6,83,995/- under Section 28(4) along with interest under Section 28AA in addition to proposing confiscation of goods under Section 111(m) and penalty under Section 112(a)(ii) & 114A of the Customs Act, 1962. The said show cause notice dated 17.06.2019 was adjudicated vide order-inoriginal dated 18.10.2019 wherein, the adjudicating authority held that the item imported by the respondent under Bill of Entry No. 3068449 dated 02.05.2019 were to be classified under CTH 94054090 and thus passed the following order:-

(a) Ordered confiscation of seized goods under Section 111(m) and gave option to redeem the goods on payment of fine of Rs. 2,00,000 under Section 125 of the Customs Act, 1962;

(b) Confirmed the demand of differential duty amounting to Rs. 6,83,995/ under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA of the Act ibid; &

(c) Imposed penalty of Rs. 6,83,995/- under Section 114A of the Customs Act, 1962.

2.1 Being aggrieved by the above Order in Original dated 18.10.2019, the respondent filed an appeal before the Commissioner (Appeals) wherein the Commissioner has held that the goods imported merited classification under CTH 85340000 and thus held that the classification, penalty fine do not survive and thus set-aside the orderin-original dated 18.10.2019. Subsequently, the said order-in-appeal was reviewed and the Department has filed the present appeal before this Tribunal.

3. Learned Authorized Representative for the Department-Appellant reiterated the findings of the Review order as well as the order-in-original and submitted that the subject goods self-assessed under the Bills of Entry, are denoted MCPCB 6349 Pride plus New 20W 5.8X1127 MM (for the manufacturer of LED lamp) designed for the manufacturing of LED lights and fixtures. The Harmonized System (HS) code for LED Lights, including LED Lamps, is expressly specified in Sr. No. 226 and 227 of Notification 1/2017-Central Tax (Rate) dated 28th June 2017, under CTH 9405 and the Adjudicating Authority justified the classification

of MCPCBs under CTH 9405, supported by IGST Notification No. 01/2017-IT(Rate) dated 28.06.2017. This notification differentiates between PCBs (classified under CTH 8534) and MCPCBs (classified under CTH 9405) based on their distinct uses and compositions.

3.1 Learned Authorized Representative further submitted that the primary issue is the classification of Metal Core Printed Circuit Board (MCPCB) and the adjudicating authority has correctly classified MCPCB under Customs Tariff Heading (CTH) 9405, whereas the appellate authority reversed this decision, classifying MCPCB under CTH 8534, treating it as a standard Printed Circuit Board (PCB). The uses of PCBs and MCPCBs differ significantly, with PCBs used in various electronic products and MCPCBs primarily in LED lights due to their heat dissipation properties. The notification issued by the Central Board of Indirect Taxes and Customs (CBIC) clearly distinguish MCPCBs from PCBs, supporting different classifications and tax rates. Ld. AR submitted that the differences between PCBs and MCPCBs are as under:-

"PCBs classified under CTH 8534 are circuits printed on an insulating material, whereas MCPCBs have a metal base (aluminum or copper) with a dielectric layer in between. Chapter Note 6 of Chapter 85 specifies that "printed circuits" are those formed on an insulating base, excluding MCPCBs, which have a metal base. MCPCBs, used primarily in LED lights, are designed to dissipate heat generated by LEDs, making them distinct from regular PCBs."

3.2 Learned Authorized Representative further submitted that the appellate authority had failed to provide any substantial reasoning or legal basis for rejecting the classification of MCPCBs under CTH 9405. He contended that the appellate authority had incorrectly stated that MCPCBs do not qualify as parts of LED lamps under CTH 9405, despite the fact that MCPCBs are integral to LED lamps functionality. He further submitted that the appellate authority had ignored the specific notification and procedural compliance that supports MCPCB's classification under CTH 9405. As per Explanatory Notes, Chapter 85 does not cover goods which can be used independently but covers those which are designed to be used as components in electrical equipment. In the instant case, the products can be used independently as they are integrated LED where the LED lamp is integrated into the fixtures and hence are not classifiable under Chapter 85. Ld. AR also stated that the GST rates in terms of explanation (iii) and (iv) to Notification No. 1/2017-Central Tax (Rate), dated 28-6-2017. The tariff heading, sub-heading, heading and chapter shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 and the rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall be applied for the interpretation and classification of goods. The relevant HSN Notes is as follows:-

"Lamps and lighting fittings of this group can be constituted of any material (excluding those materials described in Note I to Chapter 71) and use any source of light [candles, oil, petrol, paraffin (or kerosene), gas, acetylene, electricity, etc.]. Electrical lamps and lighting fittings of this heading may be equipped with lamp-holders, switches, flex and plugs, transformers, etc., or, as in the case of fluorescent strip fixtures, a starter or a ballast.”

This heading covers in particular:

(1) Lamps and lighting fittings normally used for the illumination of rooms, e.g. hanging lamps; bowl lamps; ceiling lamps; chandeliers; wall lamps; standard lamps; table lamps; bedside lamps; desk lamps; night lamps; watertight lamps.

(2) Lamps for exterior lighting, e.g. illumination lamps for public street lamps, porch and gate lamps; special buildings, monuments, parks.

(3) Specialised lamps, e.g. darkroom lamps; machine lamps (presented separately); photographic studio lamps; inspection lamps (other than those of heading 85.12); non- flashing beacons for aerodromes: shop window lamps; electric garlands (including those fitted with fancy lamps for carnival or entertainment purposes or for decorating Christmas trees).

(4) Lamps and lighting fittings for the vehicles of Chapter 86, for aircraft or for ships or boats, e.g. headlamps for trains; locomotive and railway rolling stock lanterns; headlamps for aircraft; ships' or boats' lanterns. It should be noted, however, that sealed beam lamp units are classified in heading 85.39.

Ld. AR submitted that from the above, it is evident that Chapter 94 falls under Section XX which covers 'Miscellaneous Manufactured Articles'. Lamps and light fittings can be of any source and made of any material. Further, those lamps and light fittings covered under Chapter 85 are not covered under this heading by the specific exclusion in the Chapter Notes. Further, lamps for exterior lighting are covered under CTH 9405. In the instant case, the product is a LED lamp fixture with LED light integrated into it which can function independently as garden lights. Therefore, they are classifiable under CTH 9405 40 90 as 'others electric lamps and light fitting'.

3.3 Learned Authorized Representative further submitted that it is a settled legal principle, as underscored by the Hon'ble Supreme Court in the case of Commissioner of Central Excise vs. System Component Pvt. Ltd., wherein it was held that what is admitted need not be proven. This principle finds relevance in the present appeal, where the importer's admission regarding the classification based on the nature and technicalities of the impugned goods aligns with the aforementioned legal precedent.

3.4. Given the admission of classification based on the intrinsic nature and technical aspects of the impugned goods, along with the importer's request for the waiver of a Show-Cause Notice and Personal Hearing, learned Authorized Representative contended that the case parallels the cited precedent. Consequently, it is urged that Department appeal be allowed.

4. None appeared on behalf of the Respondent-Assessee nor any arguments/ cross objections have been filed. We note that vide daily order dated 31.07.2024, the Principal Bench had ordered as follows:

“It is made clear that the appeal may be decided on merits if the appellant does not appear on the next date.”

When the case was listed on 14.10.2024, no one appeared nor any request for adjournment was received. Hence, we proceed to decide the case on merits. The issue for consideration before us is the classification of MCPCBs imported by the respondent assessee. We note that the Department has relied heavily on the IGST Notification 1/2007-I.T(rate) dated 28.06.2017 to decide the classification of the MCPCB cannot be accepted as the same was for the specific purpose of inter-State supply of goods. This cannot supplant the responsibility of the assessing officer under Section 12 of the Customs Act, 1962 to determine the classification of goods.

5. We find that the issue arising out of the present dispute is no more res integra in view of various orders passed by this Tribunal on identical set of facts. Since the Tribunal has taken the view that the product in question i.e., MCPCB should be classifiable under Tariff Item 8534 0000, different view cannot be taken to sustain classification of the same goods under Tariff Item 9405 9900, as claimed by the Revenue. The orders passed by the Tribunal on the issue are as under

i. Crompton Greaves Consumer Electricals Ltd vs. Commissioner of Customs (NS-V) [2022 (9) TMI 1130 CESTAT MUMBAI]

ii. Crompton Greaves Consumer Electricals Ltd. vs. Commissioner of Customs (NS-V) [Final Order No. A/86026-86065/2023 dated 28th June 2023].

iii. Halonix Technologies Pvt Ltd v. Commissioner of Customs (NS-V) [Final Order No. A/86137-86140/2023 dated 13th July 2023]

6. In view of the settled position of law, as discussed above, we do not find any merits in the impugned appeal. We dismiss the appeal and restore the order-in-appeal dated 13.05.2022.

(Order pronounced in the open Court on 02.01.2025)

