

2020-TIOL-395-CESTAT-MAD

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
REGIONAL BENCH, CHENNAI  
COURT NO. IV**

**Customs Appeal No. 41027 of 2019**

Arising out of Order-in-Appeal AIR C.Cus. I No. 83/2019, Dated: 26.03.2019  
Passed by the Commissioner of Customs (Appeals-I), No. 60, Rajaji Salai, Custom House, Chennai-600001

**Date of Hearing: 11.12.2019**

**Date of Decision: 06.02.2020**

**M/s COMPUAGE INFOCOM LTD  
ANNAI AUXILUM WAREHOUSE, NO. 87, GNT ROAD  
PONNIAMMANMEDU, MADHAVARAM, CHENNAI-600110**

**Vs**

**THE PRINCIPAL COMMISSIONER OF CUSTOMS  
CHENNAI VII COMMISSIONERATE  
NEW CUSTOM HOUSE, AIR CARGO COMPLEX  
MEENAMBAKKAM, CHENNAI - 600027**

**Appellant Rep by:** Shri Hari Radhakrishnan, Adv.

**Respondent Rep by:** Ms Sridevi Taritla, AR

**CORAM:** C J Mathew, Member (T)

P Dinesha, Member (J)

**Cus -**

Appellant filed a Bill-of-Entry for the clearance of 'Closed Circuit Television (CCTV) Cameras' and since the goods were of Korean origin, the appellant, under the self-assessment scheme, assessed the same at 'Nil' rate of Basic Customs Duty (BCD) in terms of Notification No. 152/2009-Cus. (Sl. No. 833) dated 31.12.2009 – Asstt. Commr. did not accept the Nil rate of BCD and charged BCD @15% which order was upheld by Commissioner(A) – importer is before the CESTAT and submits that the Adjudicating Authority should have accepted the classification of the CCTV under CTH 8525 8010 itself without re-classifying the same under CTH 8525 8090; that similar goods, imported by another importer were classified under CTH 8525 8010 by the Customs at New Delhi; that the Republic of Korea followed a Harmonized Commodity Description and coding system and the supplier issued the certificate of origin classifying the imported goods under CTH 8525 8010 only.

**Held:**

A close look at the above Bills-of-Entry reveals that there are differences as regards the descriptions of the imported goods are concerned - In any case, there is no dispute that the appellant itself had classified under CTH 8525 8090 in its Bill-of-Entry under dispute and thereby effectively prevented the Revenue from questioning further - From the HSN Note read with the Customs Tariff Heading 8525, Bench finds that there is no entry specifically for CCTV cameras and it is nowhere even hinted that CCTV cameras, which according to the appellant are neither digital cameras nor video camera recorders, would fall under the category of television cameras itself and hence, this argument of the assessee cannot be accepted - For these reasons, they cannot be classified under television camera, but rightly under "Others" for the period in dispute, since we cannot add or substitute our views/opinions, to negate Revenue's classification, just to go with appellant's claim which is based only on arguments – no merit in appeal, hence rejected: CESTAT [para 6.2, 7, 8]

**Appeal rejected**

**FINAL ORDER NO. 40071/2020****Per: P Dinesha:**

Brief facts are that the appellant filed a Bill-of-Entry No. 6280158 dated 07.05.2018 for the clearance of 'Closed Circuit Television (CCTV) Cameras' and since the goods were of Korean origin, the appellant, under the self-assessment scheme, assessed the same at 'Nil' rate of Basic Customs Duty (BCD) in terms of Notification No. 152/2009-Cus. (Sl. No. 833) dated 31.12.2009.

1.2 The Assistant Commissioner of Customs/Adjudicating Authority did not accept the nil rate of BCD and hence, charged BCD at the rate of 15% vide Speaking Order issued in F.No.S.Misc.506/2018-Gr.5A- ACC dated 29.06.2018, against which the appellant preferred an appeal before the Commissioner of Customs (Appeals), Chennai and who vide impugned Order-in-Appeal AIR C.Cus I No. 83/2019 dated 26.03.2019 having rejected the appeal, the present appeal has been filed against the same before this forum.

2. When the matter was taken up for hearing, Shri. Hari Radhakrishnan, Learned Advocate, appeared for the assessee-appellant and Ms. Sridevi Taritla, Learned Departmental Representative, appeared for the Revenue-respondent.

3.1 Learned Advocate for the appellant, taking us through the statement of facts, grounds-of-appeal and also documents like the impugned Bill-of-Entry placed in the appeal folder, would inter alia submit that the Adjudicating Authority should have accepted the classification of the CCTV under CTH 8525 8010 itself without re-classifying the same under CTH 8525 8090; that similar goods, imported by another importer under Bill-of-Entry No. 6450438 dated 19.05.2018, were classified under CTH 8525 8010 by the Customs at New Delhi; that the Republic of Korea followed a Harmonized Commodity Description and coding system and the supplier issued the certificate of origin classifying the imported goods under CTH 8525 8010 only, etc.

3.2 Learned Advocate would inter alia further submit that CTH 8525 specifically covered transmission apparatus for radio broadcasting or television, including television camera, digital camera and video camera recorder; that CCTV cameras are neither transmission apparatus nor digital cameras nor video camera recorders and hence, the only item remaining and covered by the tariff heading being television cameras, the impugned CCTV cameras are required to be classified as television cameras only; that there is nothing in the Customs tariff or even the HSN classifying CCTV cameras; that as settled by various decisions cited before the Commissioner (Appeals), the burden of proof was always on the taxing authorities and a mere assertion was of no use, etc.

3.3 Learned Advocate concluded his arguments by submitting that as long as there was no denial that the goods in question was television cameras, either open circuit or closed circuit, it remains as television camera and hence, even the CCTV cameras are required to be classified as television cameras only; and hence, the appellant rightly claimed the classification under CTH 8525 8010 which is a specific entry for television camera, which was also supported by the certificate of country of origin and also a similar classification by the Delhi Customs.

4. Per contra, Learned Departmental Representative appearing for the Revenue supported the findings of the lower authorities. She also submitted that the basic functionality of a CCTV camera is for the purposes of surveillance whereas a television camera is used as a transmission apparatus for radio broadcasting or television; that subject to the typical functioning of each apparatus, classification has been provided and that CCTV cameras not figuring anywhere in the specific categories, has been rightly brought under "Other" under CTH 8525 8090.

5. We have heard both sides, perused the impugned Bill-of-Entry No. 6280158 dated 07.05.2018 placed on record and have also gone through the relevant HSN Explanatory Note and Notification No. 152/2009-Cus. (supra). During the hearing, Learned Advocate for the appellant also placed on record the certificate of origin issued by the exporter which is dated 19.11.2019.

6.1 The impugned Bill-of-Entry No. 6280158 dated 07.05.2018 filed by the appellant itself contains the CTH as 8525 8090. The appellant has also placed on record various other Bills-of-Entry like Bill-of-Entry No. 6450438 dated 19.05.2018 which were classified under CTH 8525 8010. The descriptions of the goods given under Bill-of-Entry No. 6280158 are "KAP-CCTV CAMERA-CCTV SYSTEM EQUIPMENTS", "KAP-NETWORK VIDEO RECORDER-CCTV SYSTEM EQUIPMENTS", "AJ-CCTV CAMERA-CCTV SYSTEM EQUIPMENTS" and "AJ-DIGITAL VIDEO RECORDER-CCTV SYSTEM EQUIPMENTS" and the descriptions of the goods under Bill-of-Entry No. 6450438 are "KAP-CCTV CAMERA-(CCTV SYSTEM EQUIPMENTS)", "AJ DIGITAL RECORDER-(CCTV SYSTEM EQUIPMENTS)", "AJ DIGITAL VIDEO RECORDER-(CCTV SYSTEM EQUIPMENTS)", "AJ CCTV CAMERA-(CCTV SYSTEM EQUIPMENTS)", "KAP NETWORK VIDEO RECORDER-(CCTV SYSTEM EQUIPMENTS)". The appellant has also placed on record the Bills-of-Entry of the other importer viz. M/s. Honeywell International India Pvt. Ltd. at pages 39 to 46 of the Appeal Memorandum and the descriptions of the goods are "AJ (CCTV CAMERA) (WIRED)", "AJ (DIGITAL VIDEO RECORDER) (VIDEO DUPLICATING SYSTEM WITH MASTER AND SLAVE CONTROL)" and "AJ (DIGITAL VIDEO RECORDER) (NETWORK DUPLICATING SYSTEM WITH MASTER AND SLAVE CONTROL)"

6.2 A close look at the above Bills-of-Entry reveals that there are differences as regards the descriptions of the imported goods are concerned. In any case, there is no dispute that the appellant itself had classified under CTH 8525 8090 in its Bill-of-Entry under dispute and thereby effectively prevented the Revenue from questioning further.

7. From the HSN Note read with the Customs Tariff Heading 8525, we find that there is no entry specifically for CCTV cameras and it is nowhere even hinted that CCTV cameras, which according to the appellant are neither digital cameras nor video camera recorders, would fall under the category of television cameras itself and hence, this argument of the assessee cannot be accepted. For these reasons, they cannot be classified under television camera, but rightly under "Others" for the period in dispute, since we cannot add or substitute our views/opinions, to negate Revenue's classification, just to go with appellant's claim which is based only on arguments.

8. Therefore, we do not see any merit in the appeal and hence the same is rejected.

(Order pronounced in the open court on 06.02.2020)

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