

COLLECTOR OF CUSTOMS AND CENTRAL EXCISE AND ORS. A

v.

M/S. LEKHRAJ JESSUMAL AND SONS AND ANR.

FEBRUARY 7, 1996

[S.P. BHARUCHA AND B.N. KIRPAL, JJ.] B

Customs tariff :

Miniaturised switches used in electronic hearing aids—Conventional wafer switches replaced in the industry by newly innovated reed switches and are imported—Customs authorities holding that these are not entitled to concessional rate of import duty—High Court reversing the decision—On appeal, held switches, miniaturised could include reed switches—Progress cannot be stifled by an over-rigid interpretation of Import Policy or Customs tariff—On the date of import both wafer switches and reed switches reasonably covered by the said expression though at the time the policy or tariff was formulated, reed switches were not covered. C D

CIVIL APPELLATE JURISDICTION : Civil Appeal No.1128 of 1982.

From the Judgment and Order dated 12/15.2.82 of the Karnataka High Court in W.A. No. 212 of 1982. E

Joseph Vellapally and S.N. Terdol for the Appellants.

K. Ramkumar for the Respondents. F

The following Order of the Court was delivered :

The appeal upon certificate impugns a judgment of a Division Bench of the Karnataka High Court.

The respondent had imported miniaturised switches for use in electronic bearing aids which it manufactured. It appears that there are two types of such switches, the conventional one then being wafer switches and the other, newly innovated, being reed switches. It was the latter type of switch which was imported. The Customs authorities took the view that the respondents' import licence did not cover reed switches and they were H

A not entitled to the concessional rate of import duty. The stand or the customs authorities was, ultimately, assailed in the writ petition filed by the respondent before the High Court. The Writ petition was allowed. An appeal was preferred and it is the judgment in appeal which is under challenge before us.

B The High Court in the impugned order noted that the stand of the Customs authorities was that the words "switches, Miniaturised" as component parts of hearing aids should be understood to mean only those types of switches which were generally used in the manufacture of hearing aids at the time of publication of the Import Policy for the relevant year, namely
C 1977, and that these words could not be said to include any other type of switch even if such other type of switch could be used in the manufacture of hearing aids. The Division Bench observed, in our view, very rightly, that such an interpretation over-looked that industry was not static and that there was continuous technical progress therein. New processes and new methods developed from time to time and new material and components
D or types of components superseded others. It was unreasonable to give a static interpretation to words used in a tariff schedule ignoring the rapid march of technology. Having regard to the technical opinion that reed switches would improve the performance of hearing aids, the High Court held that reed switches were covered by the tariff entry. The High Court
E also noted that it was not the case of the Customs authorities that the respondent was trying to divert the imported reed switches from the manufacture of hearing aids to another purpose.

We do not think that we can put it better. Progress cannot be stifled by an over-rigid interpretation of Import Policy or Customs tariff. Both
F must be read as they stand on the date of importation and whatever is reasonably covered thereby must be allowed to be imported regardless of the fact that it was not in existence or even contemplated when the policy or tariff was formulated.

G The appeal is dismissed. The Bank guarantee given by the respondent pursuant to the order of this Court dated 25.3.83 shall stand discharged. There shall be no order as to costs.