

## Commissioner of Central Excise, Bangalore vs. M/s. Mysore Electricals Industries Ltd.

*Classification of goods and retrospective applicability of CBEC circular – Section 37B of the Central Excise Act, 1944 – Classification under Heading 8535 vs 8537 of the Central Excise Tariff Act, 1985.*

**Date of Order:** November 15, 2006  
**Case Law No:** GIB-SC-2006-01  
**Source:** GST INDIA Biz (www.gstindia.biz)

### CASE DESCRIPTION / SUMMARY

#### Facts:

The assessee manufactured Single Panel Circuit Breakers and classified them under Heading 8535 of the Central Excise Tariff attracting duty at 5%. The department issued a show cause notice proposing classification under Heading 8537 attracting duty at 20% and confirmed differential duty. The Commissioner (Appeals) and the Tribunal held that the goods were correctly classifiable under Heading 8535 and that the CBEC circular dated 14.07.1994 clarifying classification under Heading 8537 would apply only prospectively. The department filed an appeal before the Supreme Court.

#### Court Decision:

The Supreme Court held that the classification list filed by the assessee under Heading 8535 had been approved by the department and the goods were cleared accordingly. When the department proposed reclassification under Heading 8537, such reclassification could operate only prospectively from the date of communication of the show cause notice proposing reclassification.

The Court further held that the CBEC circular dated 14.07.1994 issued under Section 37B clarifying classification under Heading 8537 did not have retrospective effect and could operate only prospectively. Since the period in dispute was prior to issuance of the circular, the order passed by the Commissioner (Appeals) and confirmed by the Tribunal was upheld and the appeal filed by the department was dismissed.

#### Cases Referred by Court:

- *Eswaran & Sons Engineers Ltd. vs. CCE, Madras*

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