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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
K.M. JOSEPH; J., HRISHIKESH ROY; J.
CIVIL APPEAL NOS. 6048-6050 OF 2009; OCTOBER 13, 2022
M/s Thermax Ltd. through its Director *versus* **Commissioner of Central Excise, Pune-1**

Central Excise Tariff Act, 1988 - Modified Vapour Absorption Chiller Machines cannot be categorized as a Heat Pump to avail concessional tariff benefits - The end use of MVAC is to produce Chilled Water. The use of heat as one of the sources in the airconditioning system would not take away the primary or basic function of the MVAC, which is to cool and not heat water - Definition of a product given in the HSN should be given due weightage in the classification of a product for the purpose of levying excise duty.

For Appellant(s) Mr. V. Sridharan, Sr. Adv. Mr. R. Nambirajan, Adv. Mr. Aditya Bhattacharya, Adv. Ms. Mounica Kasturi, Adv. Ms. Apeksha Mehta, Adv. Mr. Pranav Mundra, Adv. Ms. Charanya Lakshmikumaran, AOR

For Respondent(s) Mr. Mukesh Kumar Maroria, AOR

J U D G M E N T

Hrishikesh Roy, J.

1. Heard Mr. V. Sridharan, the learned Senior Counsel representing the appellant. Also heard Mr. V. Chandra Shekara Bharathi, learned counsel representing the Revenue.

2. This appeal is filed under Section 35L of the *Central Excise Act, 1944* and the issue to be considered here is whether the product manufactured by the appellant is classifiable as *heat pump* under the heading 84.18 of the Schedule to the *Central Excise Tariff Act, 1985*. The question is important for the appellant because under notification 155/86-CE dated 1.3.1986, *heat pumps* falling under Chapter 8418, enjoyed a limited exemption from the levy of excise duty.

3. The appellant had sold their manufactured product by describing them as *heat pumps* but the Assistant Commissioner of Central Excise negated such description. On appeal by the assessee, the Commissioner of Central Excise (Appeals) however agreed with the manufacturer's claim. But in the appeal by the Revenue, the Customs, Excise and Service Tax Appellate Tribunal, Mumbai (for short "CESTAT") has reversed the decision. The conclusion in the impugned order dated 22.1.2009, is that the product is not *heat pump* and therefore, ineligible for concessional rate of duty under Sl. No. 2 of Notification No. 155/86-CE dated 1.3.1986. It was also held that the product is a complete machine and cannot be treated as part of a machine. It was accordingly declared that the manufacturer is disentitled to the concessional rate of duty in terms of the notification, for their product. Incidentally, the CESTAT also held that the value of Lithium Bromide is not to be calculated in the assessable value of the machine. However, to facilitate computation of the payable sum of duty by the manufacturer, the matter has been remanded to the adjudicating authority. Earlier, the appellant had preferred a writ petition before the Bombay High Court to challenge the decision of the CESTAT but because the statutory remedy of appeal to this Court is available, the High Court dismissed the writ petition on 26.3.2009 resulting in the present appeal.

APPELLANTS CONTENTION

4.1 Mr. V. Sridharan, the learned Senior Counsel submits that appellant manufactures *Modified Vapour Absorption Chillers* (for short "MVAC") and this product was presented for assessment as *heat pumps* classifiable under Heading 8418, attracting lower rate of excise duty as

compared to chillers. The appellant asserts that MVAC is bought, sold and described in their invoices and catalogues as *heat pumps*. It is their further contention that the process of manufacturing their product (*MVAC*) is distinct from manufacturing ordinary chillers as they are installing additional components in the *Vapour Absorption Chillers* (for short "VAC") such as, (I) Sensor to sense the temperature, (II) Selector Switch to control panel which can select heating/cooling mode, and (III) Additional Wiring to carry the signals from the sensors and these features warrant recognition of the machine as "*heat pumps"*.

4.2 The learned Senior Counsel emphasizes that MVAC has inbuilt capability whereby the customer can obtain both chilled and also hot water as output for further use by the end user. The Counsel relied upon a technical book "*Heat Pumps" authored by R.D. Heap* and a self-prepared chart describing the functioning of the *Heat Pump*. Based upon the aforesaid, the counsel contended that since the subject machine can provide both chilled and hot water using refrigerator circle, the interpretation against the appellant, ignoring technical features of the product, would be unjustified. Pointing out that *heat pumps* are classified with refrigerators, freezers and other freezing equipments under Heading 8418 and not as boilers under Heading 8402, it is argued that merely because *heat pumps* are inherently capable of producing cold water would not by itself justify its classification in the manner suggested by the Revenue.

4.3 The appellants Counsel then refers to the *Harmonious System of Nomenclature* (HSN) Explanatory Notes to argue that therein the functioning of the *heat pumps* is shown as heat plus energy, resulting in a source of more intense heat. Because substantial modification is carried out by the manufacturer to transform chillers into MVAC and the four-way reversing Valve, a key component in MVAC can provide heating and cooling from the system to the air condition space by reversing the flow direction of refrigerant and thereby an air conditioner can fit into the description of *heat pumps*. It is argued that classification of the product should be based on the machine, as altered by the additional components and the product presented should be seen as a whole for the purpose of classification by taking into account its inbuilt functionality to produce hot water. The senior counsel would rely on the recognition of few customers of the product who say that the product is purchased for getting both hot and cold water.

4.4 To blunt the Revenue's projection that the product is capable of heating water by mere 5 degree celsius or so and the same should not therefore be classified as *heat pumps*, the appellant's Counsel submits that the MVAC is similarly capable of marginally cooling the water also by around 5 degree celcius only and if the theory propounded by the Revenue is to be applied, the product - if it cannot be a *heat pump*, cannot also be a chiller for the same reasoning.

4.5 Assailing the legality of the impugned decision by the CESTAT, the appellant submits that Chapter Note 7 to Chapter 84 of the *Central Excise Tariff Act, 1985* was wrongly relied upon in the impugned order as the said aspect was neither counted upon in the show cause notice nor was considered in the Order-in-Original and also in the further proceedings by the Revenue. It is the further submission of the appellant that even as per Chapter Note 7, the machine which is based upon generation of heat in order to achieve cooling, should be classified in the manner suggested by the manufacturer.

4.6 Explaining the scope of Note 2 and Note 7 in the HSN explanatory notes, Mr. V. Sridharan the learned Senior Counsel submits that Note 7 cannot be made applicable to products falling under Chapter 84.01 to 84.24 by referring to the following extract from Note 2:-

"Machines, which fall in two or more headings, none of which is within headings 84.01 to 84.24, are classified in that heading which provides the most specific description of the goods, or according to the principal use of the machine. Multipurpose machines which are used equally for a number of different purposes or industries (e.g. eyeleting machines used equally well in the paper, textile, leather, plastics, etc., industries) are classified in heading 84.79,"

4.7 The Senior Counsel has referred to the industry related decision in the cases of *Commissioner of Central Excise, Mumbai Vs. Blue Star Ltd.*[1] and *Commissioner of Customs and Central Excise Vs. Voltas Ltd.*[2] who are the principal competitors of the appellant in the same field to point out that the product manufactured by the said two companies are identical to MVAC manufactured by the appellant, and in the proceedings pertaining to those two companies, the products manufactured by them were treated as *heat pumps*, falling under Heading 84.18. What is more, the issue has attained finality as the Revenue's appeal against the order of CIT(A) favouring the manufacturer, was dismissed by the CESTAT and further appeal against the order of the CESTAT was thereafter dismissed by this Court. Accordingly, it is argued by the appellant that since similar products as theirs were taxed at the rate of 15 per cent, higher duty should not be levied for the appellant's similar machine, as the same would be discriminatory, accordingly MVAC must also be treated as *Heat Pump.*

RESPONDENTS CONTENTION

5.1 On the other hand, Mr. V. Chandra Shekara Bharathi, the learned counsel, at the outset, submits that the Revenue does not dispute the classification of the product under Chapter 8418 since there are no rival entries. Notwithstanding such a stand, it is argued that the MVAC manufactured by the appellant does not qualify as *heat pump* to secure the benefit of limited exemption, under the Notification 155/86-CE dated 1.3.1986. It is specifically contended that MVAC does not satisfy the definition of *heat pump* given in the HSN where *heat pump* is defined as under:-

"A heat pump is a device which draws heat from a suitable heat source (principally underground or surface water, the soil or the air) and converts it with the assistance of a supplementary energy source (e.g. gas or electricity) into a source of more intense heat."

5.2 Taking a cue on the functional description of the device in the HSN, the respondent submits that the definition of the *heat pumps* is through a process of heat plus energy resulting in a source of more intense heat, but for the appellant's device, the final output is chilled water and therefore, MVAC would not qualify as *heat pump*. The production of hot water from MVAC is only an incidental purpose of the machine and this by itself, the respondents argue, would not justify classification of the product as no customer has purchased MVAC for the incidental purpose that it also produces hot water, and the primary use of the product is only for cooling/chilling purpose. It is also pointed out that the product is understood and recognized in market parlance as a *Vapour Absorption Chiller,* used exclusively for air conditioning or refrigeration purpose and the device is not known as a *heat pump*.

5.3 Since an exhaustive definition of *heat pump* is given in HSN, Mr. Bharathi argues that the said definition should be the basis for classification of the MVAC and deviation from the HSN definition to classify product as *heat pump*, would be contrary to the ratio in *Collector of Central Excise, Shillong Vs. Wood Craft Products Ltd.*[3] and *Commissioner of Customs and Central Excise, Amritsar (Punjab)* Vs. *D.L. Steels etc.*[4]. In these two decisions, it has been held that when a definition is contained in the HSN, that definition should prevail for the purpose of classification of the product and accordingly, it is argued that any interpretation of *heat pump,* beyond the scope of definition provided in the HSN, would not be justified.

5.4 According to the respondent, the primary function of MVAC is to produce chilled water and since production of hot water is only incidental, the same cannot provide an acceptable justification for classification of the product as *heat pump*. It is also pointed out by Mr. Bharathi

[1] (198) ELT 454
[2] 2005 (180) ELT 57
[3] (1995) 3 SCC 454
[4] 2022 SCC OnLine SC 863

on behalf of the Revenue that the website of the appellant shows that both *heat pumps* and *Vapour Absorption Chillers* are marketed separately by the appellant and in the description of the product *Vapour Absorpotion Chillers*, the appellant does not mention about its heating capability. Likewise in the description of *heat pumps*, the cooling capability is not mentioned. According to the respondent, the modification of the *Vapour Absorption Chillers* (VAC) as *Modified Vapour Absorption Chillers* (MVAC) does not in any way alter the primary character/purpose of the device which is intended to function as *Vapour Absorption Chillers* used exclusively for refrigeration and cooling. The incidental production of hot water through modification of VAC is not germane to warrant classification of VAC in the category of *heat pumps*.

5.5 The learned counsel for the Revenue next contends that the judgment of the Tribunal in *Blue Star* (supra) and *Voltas* (supra) are distinguishable and should have no application in determining the classification of the MVAC manufactured by the appellant.

5.6 Adverting to Chapter Note 7 to Chapter 84, it is also argued that production of chilled water is the sole purpose of the MVAC and the product does not qualify as *heat pump,* if the HSN definition is applied as is necessary.

DISCUSSION

6. The definition of a product given in the HSN should be given due weightage in the classification of a product for the purpose of levying excise duty. This is because in the Statement of Objects and Reasons of the Bill leading to enactment of *Central Excise Tariff Act, 1985*, it was clearly stated that the pattern of tariff classification is broadly based on the system of classification derived from the *International Convention on the Harmonised Commodity Description and Coding System* (Harmonised System) with such contraction or modification thereto as are necessary, to fall within the scope of the levy of central excise duty. The tariff so suggested for the levy under the Indian Tariff Act is based on an internationally accepted nomenclature, in the formulation of which, all considerations, technical and legal, have been taken into account. This was done to reduce avoidable disputes on tariff classification. Besides, the tariff would be on the lines of the harmonized system. It was also borne in mind that the tariff on the lines of the harmonized system would bring about considerable alignment, between the customs and central excise tariffs, which in turn, would facilitate charging of additional customs duty on imports, equivalent of excise duty. It was therefore expressly stated in the Statement of Objects and Reasons that the central excise tariff are based on the HSN and the internationally accepted nomenclature was as such taken into account, to reduce tariff classification disputes. Thus, it was suggested that a safe guide for classification is the internationally accepted nomenclature emerging from the HSN and in case of doubt, the HSN should be chosen advisory for ascertaining the true meaning of any expression used in the Tariff Act. In *Wood Craft (supra),* in the opinion written by Justice J.S. Verma, the following was pertinently opined in this context:

"**12.** ….. Accordingly, for resolving any dispute relating to tariff classification, a safe guide is the internationally accepted nomenclature emerging from the HSN. This being the expressly acknowledged basis of the structure of Central excise tariff in the Act and the tariff classification made therein, in case of any doubt the HSN is a safe guide for ascertaining the true meaning of any expression used in the Act. The ISI Glossary of Terms has a different purpose and, therefore, the specific purpose of tariff classification for which the internationally accepted nomenclature in HSN has been adopted, for enacting the Central Excise Tariff Act, 1985, must be preferred, in case of any difference between the meaning of the expression given in the HSN and the meaning of that term given in the Glossary of Terms of the ISI.

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18. We are of the view that the Tribunal as well as the High Court fell into the error of overlooking the fact that the structure of the Central excise tariff is based on the internationally accepted nomenclature found in the HSN and, therefore, any dispute relating to tariff classification must, as far as possible, be resolved with reference to the nomenclature indicated by the HSN unless there be an express different intention indicated by the Central Excise Tariff Act, 1985 itself. The definition of a term in the ISI Glossary, which has a different purpose, cannot, in case of a conflict, override the clear indication of the meaning of an identical expression in the same context in the HSN. In the HSN, block board is included within the meaning of the expression "similar laminated wood" in the same context of classification of block board. Since the Central Excise Tariff Act, 1985 is enacted on the basis and pattern of the HSN, the same expression used in the Act must, as far as practicable, be construed to have the meaning which is expressly given to it in the HSN when there is no indication in the Indian tariff of a different intention."

7. Commenting on the importance of taking guidance from HSN Classification and how a taxing statute should be construed in consonance with their commonly accepted meanings in the trade and popular sense, Justice Sanjiv Khanna in *D.L. Steels* (supra) also so correctly observed as follows:-

"9. *The Harmonised System of Nomenclature*[9], developed by the World Customs Organisation, has been adopted in India by way of the Customs Tariff Act, 1975, though there are certain entries in the Schedules to this Act which have not been assigned HSN codes. The Harmonised System is governed by the *International Convention on Harmonised Commodity Description and Coding System*, which was adopted in 1983, and enforced in January, 1988. This multipurpose international product nomenclature harmonises description, classification, and coding of goods. While the primary objective of the HSN is to facilitate and aid trade, the Code is also extensively used by governments, international organisations, and the private sector for other diverse purposes like internal taxes, monitoring import tariffs, quota controls, rules of origin, transport statistics, freight tariffs, compilation of national accounts, and economic research and analysis. In the present times, given the widespread adoption of the Harmonised System by over 200 countries, it would be extremely difficult to deal with an international trade issue involving commodities, without adverting to the Harmonised System. The Code is the bedrock of custom controls and procedures. The HSN consists of over 5000 commodities groups, which are structured into 21 Sections and 97 Chapters, which are further divided into four and six digit subheadings. Many custom administrations, like India, use an eight or more digit commodity coding system, with the first six digits being the HSN code.

10. Classification under the Harmonised System is done by placing the good under the most apt and fitting sub-heading. This is done by choosing the appropriate Chapter, Heading, and sub-heading respectively. To facilitate interpretation and classification, each of the 97 Chapters in the HSN contain corresponding Chapter Notes, General Notes, and Explanatory Notes applicable to the Headings and sub-headings within that Chapter. In addition, there are six General Rules of Interpretation[10] applicable to the Harmonised System as a whole.

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12. We would, at this stage, take on record the well-settled principle that words in a taxing statute must be construed in consonance with their commonly accepted meaning in the trade and their popular meaning. When a word is not explicitly defined, or there is ambiguity as to its meaning, it must be interpreted for the purpose of classification in the popular sense, which is the sense attributed to it by those people who are conversant with the subject matter that the statute is dealing with. This principle should commend to the authorities as it is a good fiscal policy not to put people in doubt or quandary about their tax liability. The common parlance test is an extension of the general principle of interpretation of statutes for deciphering the mind of the

law-maker. However, the above rule is subject to certain exceptions, for example, when there is an artificial definition or special meaning attached to the word in a statute, then the ordinary sense approach would not be applicable."

8. Guided by the definition of *heat pump* as given in the HSN, it is clearly discernible that the *Modified Vapour Absorption Chillers* (MVAC) manufactured by the appellant do not satisfy the definition of *heat pump* as given in the HSN. According to the appellant, the functioning of the MVAC involved - a) Lithium Bromide in a lower concentration is made to react with water to form what is commonly known as the 'weak solution' containing both water and Lithium Bromide; b) To this weak solution, heat is applied. When heat is applied, the concentration of Lithium Bromide increase which results in the separation of the water from Lithium Bromide. The separated water is in the form of Vapour; c) This Vapour travels to the condenser and then to the cooling tower to produce chilled water; d) The waste heat if any can be used to produce hot water. The heat can also be wasted.

9. The *heat pumps* by utilizing energy, as per HSN becomes a source of more intense heat. However, since the final output of MVAC is cold/chilled water, the MVAC obviously does not fit into the given definition. The hot water, that is produced for generating chilled condition/ refrigeration, is only an incidental purpose of the MVAC and therefore classification of the appellant's product as a *heat pump* on this basis, would in our view, be irrational.

10. Moreover, it cannot also be overlooked that customers do not purchase MVAC because it produces hot water and in commercial parlance the manufactured product of the appellant is known as a *Vapour Absorption Chiller* used for air conditioning and refrigeration and not at all for heating purpose.

11. The appellant however argued that their machine can produce both chilled and hot water as output using refrigeration cycle and the product user has the option of availing either hot or chilled water. On this aspect, it is acknowledged by the learned counsel for the appellant that the production of cold water never stops when the MVAC is operating. Of course, with the option of a switch, the hot water can also be obtained. However, the customer does not have the option of choosing either hot or chilled water and he has to compulsorily use chilled water or use both chilled water and hot water.

12. As it is not possible for the user to obtain only hot water from the MVAC, we find it difficult to relate the product to the definition of *heat pump* given in the HSN. The manner of operation of the device and its output makes it abundantly clear that the primary purpose of the MVAC is to produce chilled water and the incidental production of hot water in its operation is only incidental and cannot therefore be a ground for classification of the product under Chapter 8418.

13. When the market/common parlance test is applied for the manufactured product, it is seen that the appellant in their website have identified *Vapour Absorption Chillers* and *heat pumps* separately. Significantly in the description of the product on the appellant's website, *Vapour Absorption Chillers* do not mention about its heating capability. Likewise, *heat pumps* do not mention about the cooling function. This would suggest that the appellants do not themselves recognize the incidental hot water generating capacity of the *Vapour Absorption Chillers,* to treat it as a *heat pump*. The modification of *Vapour Absorption Chillers* by adding a sensor to gauze the temperature and incorporating a selector switch in the control panel to select heating/cooling mode with added wiring to carry the signal from the censors would simply mean that a *vapour absorption chiller* can also produce hot water. However, what is important to keep in mind is that the additional purpose does not alter the primary character/functionality of the product which is to function as a *vapour absorption chiller*, used to produce chilled water for the purpose of refrigeration and air conditioning. This is how the product is recognized in the market. The incidental output from the machine cannot therefore justify classification of the product in the category of *heat pump*.

14. Insofar as the submission of Mr. V. Sridharan, the learned Senior Counsel that the product manufactured by the appellant must be similarly classified as the products manufactured by the two rival companies i.e. *M/s. Blue Star* and *M/s. Voltas*, as was decided in the related proceedings, it must be said at the outset that the concerned decisions of the Tribunal related to classification of the product under two rival entries but in the present case, the adjudication relates to a single entry. Additionally, in the present matter, the Tribunal held in favour of the Revenue whereas in the case of *Blue Star* (supra) and *Voltas* (supra), the manufacturers succeeded with their contention before the Tribunal. Therefore, the decision cited by the learned senior counsel for the appellant do not persuade us to hold in favour of the appellant.

15. That apart, it must be kept in mind that the Revenue in the case of *Voltas* (supra), classified their Vapour Absorption Unit as an air conditioning equipment falling under Chapter 8415 and not as a refrigeration equipment falling under Chapter 8418. Significantly, while declaring that the product is a refrigeration equipment falling under Chapter 8418, the Tribunal had no occasion to decide whether the product is a *heat pump* or not. Therefore, in the present matter where the issue to be decided is whether MVAC is a *heat pump* or not, the decision in the case of *Voltas* (supra) can be of no assistance for such determination.

16. Likewise, in the case of *Blue Star*, in order to classify the product beyond the scope of *heat pump*, the Revenue placed it under Chapter 8415. In that proceeding, the product in question was not tested to determine whether it would be covered in the definition of *heat pump* given in the HSN. The onus to be discharged by *M/s. Blue Star*, in their case, was to prove that their product did not fall under Chapter 8415 and they had no occasion to satisfy the definition under HSN, for their product. Moreover, as earlier said, unlike the case of *M/s. Blue Star*, we are not required to deal with two rival entries in the present matter as the contention of the Revenue before us is that despite the product falling under Chapter 8418, the MVAC is not a *heat pump*.

17. Proceeding next to examine whether Chapter Note 7 to Chapter 84 can have a bearing in the present matter, what is stated therein is that a machine is capable of additional function, for the purpose of classification, its principal purpose is to be understood as the machine's sole purpose. On this, the learned counsel for the Revenue has argued that Chapter note 7 forms part of the HSN which has been adopted in the *Central Excise Tariff Act* and the same being an Act of Parliament, the reliance on the chapter note in the HSN is a legal contention which, given the circumstances, can be applied in the present matter. We cannot also be unmindful of the fact that Chapter Note 7 comes into play only when there are two or more headings, and in those situations when, none of those headings fall under Chapter 84.01 to 84.24. According to HSN, the headings 84.01 to 84.24 cover an apparatus by referring to their definition which can be used in different industries. The present case pertains to heading 84.18 and the expression and phrases must therefore be literally construed to include two commercial classifications within the same heading. For example, a product under heading 84.18 can either be a refrigerator or a freezer or a refrigeration equipment or a *heat pump* not falling under Chapter 8415. In a situation like this, if we apply Chapter Note 7, the same can act as a tie-breaker mechanism. The resolution can be achieved by looking at the Principal Purpose Test, which if applied, can also resolve the intra-heading dispute. Such mode of interpretation in our understanding will aid in settling, the classification dispute by adhering to the HSN Code.

18. If the Principal Purpose Test is applied for the machine manufactured by the appellant, it is quite apparent that the product MVAC is intended to produce chilled water. Moreover, even if the option of availing hot water is available, significantly, the production of chilled water never ceases, while the machine is operating. Therefore, the principal purpose of the machine is undoubtedly to produce chilled water. Therefore, taking help from Chapter Note 7, producing chilled water is to be taken as the sole purpose of the *Modified Vapour Absorption Chillers* manufactured by the appellants. The CESTAT by applying the ratio laid down in *Commissioner*

of Central Excise, Delhi Vs. Carrier Aircon Ltd.[5] has therefore concluded that the function of the machine is only to chill water or bring it to a very low temperature.

19. The above conclusion is supported by the ratio in *Xerox India Ltd. Vs. Commissioner of Customs*[6], where Justice H.L. Dattu while adverting to functional classification of multi-functional machines opined that in case of machines capable of performing two or more supplementary/alternative functions, the appropriate classification should be in reference to its principal function.

20. The principles enunciated in *DL Steels (Supra)* qua significance of HSN and the manner in which the appellant's product have been treated on the earlier occasions by the Revenue, together with the fact that it had been treated as a chiller and the customers have been purchasing MVAC primarily for the purpose of chilling, should have a definite bearing on the classification issue under consideration. The MVAC manufactured by the Appellant should normally be not classified as a *heat pump*, notwithstanding the fact that the manufacturer has modified the *vapour absorption chiller,* using additional components. Moreover, the definition provided in the HSN must have an overriding influence over any other definition for the purpose of Classification of the product.

21. The end use of MVAC is to produce Chilled Water. The use of heat as one of the sources in the airconditioning system would not take away the primary or basic function of the MVAC, which is to cool and not heat water. The additional heating capability of the machine thus raises a peculiar dilemma, but then one can be guided by the market parlance test which shows that the machine is perceived and purchased only as a cooling device. The circumstances here remind us of the somewhat similar predicament of Lord Illingworth, the character in *A Women of No Importance*. In this classic play of Oscar Wilde[7], in the context of observing all kinds of human capabilities, the dramatis personae made that classic remark on those, *"who do the improbable."* The uncharacteristic capability of the cooling machine to also produce hot water, should not however deflect us and it would be appropriate to observe in this case that a chiller machine is attempting to masquerade as a *heat pump*, to gain concessional tariff benefits. The conclusion therefore is inevitable that the MVAC machine must not be categorized as a *Heat Pump*. Consequently, it is declared that the product manufactured by the appellants merit classification under Sub-heading 8418.10 of the *central excise Tariff Act, 1985,* in the category of refrigerating equipment. The view of the CESTAT is thus affirmed. The appeals are accordingly dismissed leaving the parties to bear their own cost.

[5] (2006) 5 SCC 596
[6] (2010) 14 SCC 430
[7] Oscar Wilde - *A Women of No Importance*.: Act 3.