

Court No. - 17

Case :- SALES/TRADE TAX REVISION No. - 331 of 2010

Revisionist :- The Commissioner Commercial Tax U.P.
Lucknow

Opposite Party :- M/S Vision Distribution Pvt. Ltd.

Counsel for Revisionist :- Standing Counsel

Counsel for Opposite Party :- Vikas Singh

Hon'ble Alok Mathur,J.

1. Heard Sri Sanjay Sarin, learned counsel for revisionist and Sri Adarsh Srivastava holding brief of Sri Vikas Singh for the respondents.

2.By means of the present revision, order dated 02.07.2009 has been assailed by the revisionist whereby "monitors" has been held to be part of "computer system and peripheral parts" as per serial No. 22 of Schedule-II B of U.P. VAT Act.

3. It has been submitted by learned counsel for the revisionist that the respondent is a dealer and is registered under the VAT act dealing with purchase and sale of computer equipment and parts.

4. In the present case, the proceedings were initiated and a question was referred to the Commissioner under Section 59 of the U.P. Value Added Tax Act 2008 as to whether the monitor falls within the purview of "computer system and peripherals, electronic diaries" as per serial No. 22 of Schedule-II B of U.P. VAT Act.

5. The Commissioner while rendering his opinion held that the monitors are in fact an output device to the computer on which the data is displayed and such a device can be appropriately covered under serial No. 21 of Schedule-II B of U.P. VAT Act which provides for liquid crystal devices, flat panes display devises and and parts thereof.

6. The respondent being aggrieved by the said order dated 20.03.2009 passed by the Commissioner, Commercial Tax, Uttar Pradesh preferred an appeal before the Tribunal.

7. The Tribunal by means of impugned order dated 02.07.2009 has allowed the said appeal holding that monitors would fall into the category of "computer system, peripherals and

electronic diaries".

8. Learned Counsel appearing on behalf of revisionist has submitted that computer monitor would be appropriately covered in serial No. 21 of Schedule-II B of U.P. VAT Act and is merely a display and is not part of the computer system and peripherals.

9. Learned counsel for respondents on the other hand while supporting the impugned order has submitted that this aspect of the matter stands concluded by the number of judgments of this court where it has been held that essential parts of the computer would be part of the computer system and cannot be taken as peripherals.

10. It has been submitted that a monitor is an essential part of a computer system inasmuch as without a display, the entire computer system would be rendered useless.

11. To answer the question as to whether a computer system would include a monitor, it has to be seen as to whether the monitor is an essential ingredient of a computer or merely a peripheral without which it can function.

12. A Computer, in its common parlance and technical sense, is known as a Central Processing Unit, along with its connected peripherals unit, which gives it essential character. A Computer consist of a CPU, monitor, keyboard and mouse or any combination of input and output devices.

13. Without doubt, it is noticed that without a monitor, a computer system would be rendered useless and hence a monitor would be an essential ingredients of a computer system and accordingly it has to be held to be a part of the computer system and peripherals and included in serial No. 22 of Schedule-II B of U.P. VAT Act.

14. In the case of **Ricoh India Limited v. Commissioner, 2012 SCC OnLine Del 2579**, the Delhi High Court has observed as under:

"computer systems and peripherals, Electronic diaries"

16. *The question, therefore, which is raised and has to be answered, is whether the multi functional machines or printers are computer peripherals or not? The term "peripheral" has not been defined in the VAT Act and, therefore, has to be given its natural and common sense meaning. A computer mainly consists of Central Processing Unit, which cannot*

operate and function without peripherals like monitor, keyboard, printer etc. Some of the peripherals may be mounted or housed in the computer cabinet itself like Hard Disc, CD ROM, Mic etc. Sometime peripherals can be separate and have to be attached to the Central Processing Unit. The term "peripheral" has been defined in Oxford Dictionary to mean as under:-

"(of a device) able to be attached to and used with computer, though not an integral part of it"

17. A multi functional machine can be a computer peripheral, if its principal or sole purpose is to be attached and function as a computer ancillary. A multi functional machine will be and qualify as a computer peripheral when its main/predominant purpose is to scan documents, load data or work as an input device of the computer or work as an output device to take printouts etc. from the computer. At the same time, there can be photocopiers, whose main purpose is to copy or act as a duplicating machine to make copies of documents. Incidentally, they may also be used as a printer. This would require elucidation and examination of factual matrix in each case and the machine in question on case to case basis."

15. In the case of **M/s Kores (India) Limited Vs. Commissioner of Customs, Mumbai reported in 2010(14)SCC 430**, the Hon'ble Supreme Court has observed as under:

"16. The Multi Function Device comprising of computer printer, fax machine, photocopier and scanner - all-in-one, with the fast technology development, is an office equipment, which combines the foresaid three or four devices and functions in one unit, and is largely used while attached with computer, though it may be used in some respects, as stand alone equipment, or even with or without being attached to the computer, like fax machine, as a part of it. The scanner, which produces digital image of the documents scanned can be used only with the aid of computers, if the scanned image has to be transmitted to any other destination, though such transmission can be made possible through mobile phone also, as contended by the learned counsels for the Revenue. With the technology fast developing, it is now possible to do so and use Multi Functional Device with remote sensors in the computer system or Wi-fi. Therefore, actual and physical connection with the computer may not be even necessary. The major user of the Multi Functional Devices, the taxability of which is in question before this Court, is as a computer printer and one study in this regard produced by the learned counsels for the Assesseees by

the World Book Encyclopedia, indicates that typical page consumption analysis discloses that of the total output, 67% is printed, 30% is copied and 3% is faxed. The Assessee before this Court also contended that the dominant use of Multi Functional Device in question is computer printer only, with which the documents in the computer system is printed with the help of the said equipment or machine.....

17. That as a matter of fact, the entry is wider, which includes not only computer printers, but computer peripherals also. This Court finds no justification in the contention raised by the learned counsels for the Revenue, that the word peripherals has to be construed narrowly to limit and include only accessories like, mouse, webcam or keyboard, as computer peripherals, to be taxed @ 4% under the said entry, and not to include therein the Multi Functional Devices."

16. This court while considering the aspect as to whether the toner-cartridges would be part of the printer, in the case of **Kores (India) Limited Vs. Commissioner of Trade Tax, Lucknow, (2020) ILR 2 All 122** in paragraph Nos. 14 & 15 has held as under:-

"14. Undoubtedly, the printer is sold along with the "cartridge" and is included in the package containing the printer and therefore from the above fact it can be deduced that the printer includes a "cartridge" and are sold together. "Cartridge" being a consumable item has to be periodically replaced/recharges with toner.

15. In the light of the above discussion, this court is of the considered view that toner cartridges are part of a printer and are liable to be taxed at the same rate as printer. It is the duty of the taxing authority, firstly to see that whether an item falls in any of the category mentioned in the schedule and only when such an item is not found falling in any of the schedule can the same be taxed in the ancillary clause."

17. From a perusal of the above judgements and the facts of the present case, it is evident that a monitor is essential and integral component of a computer system. Entry 22 uses the term 'Computer System' and therefore a 'Monitor' would clearly be included in the 'Computer System'.

18. It is noticed that the Commissioner had erred in giving his opinion inasmuch he only considered the question as to the correct entry in which the monitor would fall had only considered the Serial - 21 pertaining to liquid crystal display and did not consider that monitor would be part of computer

system and peripherals as provided for in Serial No. 22 of the said list.

19. In light of the above, this Court is of the considered view that a monitor is a part of computer system and accordingly the sale of monitor would fall in serial No. 22 of Schedule-II B of U.P. VAT Act. No other point has been raised by learned counsel for revisionist.

20. Accordingly, this Court does not find any infirmity with the order of the Tribunal. The present revision being devoid of merits and is accordingly **dismissed**.

(Alok Mathur, J.)

Order Date :- 11.10.2023

Ravi/