

Rose Business Forms Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-29-1997

Reported in : (1998)(98)ELT260TriDel

Appellant : Rose Business Forms

Respondent : Collector of Central Excise

Judgement :

1. In this appeal filed by M/s. Rose Business Forms, the matter relates to the classification of computer stationary. The appellants had contended that the goods manufactured by them were articles of stationary and were eligible for exemption as the products of printing industry under Notification No. 234/82-C.E., dated 1-11-1982. The Collector of Central Excise, Aurangabad after detailed discussion came to a finding that the goods were classifiable under Item No. 68 of the erstwhile Central Excise Tariff and were not covered by the exemption for the products of printing industry. He had also observed that the demand by invoking the extended period of limitation was valid and maintainable. He had, however, dropped the proceedings in so far as it related to the period under the new Central Excise Tariff in force from 1-3-1986.

2. The matter was posted for hearing on 29-10-1997. The appellants have prayed for decision on merits and had filed written submission. In these written submissions they had mainly contended that the process of manufacture adopted by them for converting the ruled paper did not amount to the process of manufacture. They have further contended that if the value relating to the ruled

paper is excluded then for the computer stationary they will be eligible for small scale exemption.

3. Shri H.K. Jain, SDR who appeared for the respondent Revenue submitted that the ruled paper was not the same as the paper which had been converted into the ruled paper. In the proceedings before the adjudicating authority the appellants had contended that both the items ruled paper and computer stationary were articles of stationary classifiable under Item No. 68 of the erstwhile Central Excise Tariff and had claimed the benefit of Notification No. 234/82-C.E. on the ground that their articles of stationary were product of printing industry. He referred to the Supreme Court decision in the case of Rollatainers Ltd. v. Union of India (S.C.) where the Supreme Court had explained the expression "product of printing industry". It was his submission that the product in this case was computer stationary and the printing industry as such could not bring the computer stationary into existence. He pleaded for rejection of the appeal.

4. We have carefully considered the matter. It is seen that the appellants had not filed any declaration intimating their activities during the years 1984-85 to 1986-87 and that for the subsequent period no true and correct declaration had been filed. The appellants had contended that they had not filed declaration due to ignorance of law (refer to page 5 of the order-in-original). The appellants were registered with Directorate of Industries, Solapur for the manufacture of computer form in two parts and three parts, telex rolled papers and pre-printed forms. They had admitted that the goods manufactured by them were articles of stationary which were classifiable under Item No.68 of the erstwhile Central Excise Tariff. They had, however, pleaded that their products were the product of printing industry which enjoyed exemption under Notification No. 234/82-CE., dated 1-11-1982.

5. We find that under Notification No. 234/82-C.E., dated 1-1-1982 among others products of the printing industry including newspapers and printed periodicals were eligible for exemption. Similar exemption in favour of the products of the printing industry was earlier available under Notification No. 55/75-C.E., dated 1-3-1975 and this Notification had come up for examination by the Supreme Court in the case of Rollatainers Ltd. v. Union of India 1994 (72) E.L.T. 793 (S.C.). The

Supreme Court had held that the contention that all products on which some printing is done were the products of the printing industry could not be accepted. Para 9 from that decision is extracted below : 9. The literature referred to by the appellant only shows that the printing industry has advanced to such an extent that one can print on almost anything such as glass, metal or synthetic base. Earlier the printing activity was primarily confined to printing of books, literature, newspapers and periodicals etc. The advanced Printing Industry covers a much wider field of activity than it did in the past. Can we, therefore, say that every material on which printing work is done becomes a product of the Printing Industry? The answer has to be in the negative. An ordinary carton without any printing on it is a completed product and undisputably the product of Packaging Industry. The question for our consideration is, does it cease to be the product of Packaging Industry as and when some printing is done on the said carton? We are of the view that to a common man in the trade and in common parlance a carton remains a carton whether it is a plain carton or a printed carton. The extreme contention that all products, on which some printing is done, are the products of the Printing Industry cannot be accepted. The Division Bench of the High Court has rightly rejected the contention on the following reasoning: "In our view, it would be an extreme proposition to hold that all products on which some printing is done is a product of the printing industry. In that event, printed cloth would be a product of the printing industry and not of the textile industry. A metal can with printed material on it will similarly be a product of the printing industry and not of the textile industry. A metal can with printed material on it will similarly be a product of the printing industry and not the packaging industry. The same can be said of cardboard packet and even wooden boxes over which some printing is done to identify the goods or its manufacturer. In our view, the mere fact that something is printed on a product by itself does not make it a product of the printing industry. A carton is a carton and has only one use, namely of packing a product to be sold in the market. The mere fact that something is printed on it does not change its essential nature or use. The learned Judge has observed that the end-use of a product is immaterial. In the case of a carton the question does not arise, because it has only one use and therefore any distinction between its intermediate use and end-use is unwarranted. In our view, the printed cartons are designed at times to make the

product attractive for the purchaser, and at times to identify the goods and highlight its qualities, and at times to identify the manufacturer of the goods. All the same, the carton remains a carton and is used for the purpose of packaging." 6. In this case the appellants were engaged in the manufacture of computer stationary. They have admitted the goods manufactured by them were articles of stationary. The articles of stationary were classifiable under Item No. 68 of the erstwhile Central Excise Tariff.

The continuous stationary for computers and the telax ruled paper were not sold in bound condition. They had specific use in computer and telex. They could also not be considered as the product of printing industry. The product in this case was the continuous computer stationary and the telex ruled paper. The printing industry could not bring the continuous computer stationary and telex ruled paper into existence. The process adopted by the appellants was for productmg the goods for specific purposes and printing if any was incidental and by that they did not become the product of printing industry.

7. The adjudicating authority had already withdrawn the demand for the period 1-3-1986 to 30-9-1989.

8. He had also discussed that the appellants had not filed any declaration and their activities were not disclosed and could be known during the course of the survey of the small scale manufacturers of excisable goods carried out by the Central Excise Officers during June, 1989. As the appellants had not filed any declaration had not sought any approval for the classification for the eligibility to any exemption, notification etc. we considered that the view taken by the adjudicating authority did not suffer from any infirmity.

9. Taking all the relevant facts and considerations taken into account we do not find any merit in this appeal and the same is rejected.

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