Z.A. Enterprises Vs. Commissioner of Central Excise

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SooperKanoon Citation : sooperkanoon.com/12757

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-02-1998

Reported in : (1998)(101)ELT145TriDel

Appellant : Z.A. Enterprises

Respondent : Commissioner of Central Excise

Judgement :

1. Modvat credit of Rs. 2,30,976/- has been denied on detergent cakes supplied along with detergent powder manufactured by the appellants herein for the reason that the cake is not an input for detergent powder. Learned Consultant submits that since the value of the cake is added in the value of the detergent powder, the cake is to be treated as an input and he also relies upon Note 6 to Chapter 34 in which packing from bigger pack to smaller pack of items covered by Chapter 34 is to be treated as a process of manufacture. Learned DR submits that detergent cake is only supplied along with detergent powder and what is material is not whether there is any value addition but whether the detergent cake is an input for detergent powder. He submits that the detergent cake is an independent item by itself and is admittedly not an input for detergent powder.

2. I have carefully considered the submissions of both sides. On a query from the Bench, the learned Consultant fairly stated that the detergent cake is not an input for detergent powder; however, he submits that it is to be treated as an accessory and since accessories were also entitled to credit by virture of Notification 28/95 dated 29-6-1995, the detergent cake should be considered at least as an

accessory for the period in question which is prior to the issue of Notification 28/95. The issue as to whether the detergent cake can be considered as an accessory for detergent powder is not the subject matter of this appeal which is limited only to the question whether the detergent cake can be considered as an input for detergent powder.

Since there is no dispute that it is not an input for detergent powder, credit is not available on detergent cake. The submission of the learned Consultant that the detergent cake is to be treated as an accessory even for the period prior to the issue of Notification cannot be accepted in view of the well settled legal position that unless specifically indicated, amendments are to be treated as having prospective operation and not to be treated as retrospectives in operation. In view of the above discussion, I see no infirmity in the impugned order and accordingly uphold the same and reject the appeal.

However, as rightly pointed out by the appellants, the demand requires to be reduced by an amount of Rs. 61,594/- since this amount was taken as credit on 29-6-1995 (as seen from Sl. Nos. 6 and 7 of Annexure to the show cause notice) and w.e.f. 29-6-1995, the Assistant Commissioner has allowed credit on detergent cake treating it as an accessory in terms of Notification 28/95. Therefore, while confirming the demand, I hold that the amount of credit which has been wrongly taken is reduced to Rs. 69,382/- (Rs. 2,30,976/- minus Rs. 61,594/-). Subject to the above modification in the quantum of demand, the appeal is otherwise rejected.