Devarsons Pvt. Ltd. Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Apr-30-1998

Reported in : (2000)(117)ELT772Tri(Mum.)bai

Appellant : Devarsons Pvt. Ltd.

Respondent : Commissioner of Central Excise

Judgement :
1. The appellant manufactured in 1986 synthetic dyes classifiable under Item 14D of the Act. After clearing such dyes on payment of duty it blended some quantity of such dyes as quantities of different colours and made the resultant colour of a liquid by addition of solvent. In the order impugned in the appeal Collector (Appeals) -has confirmed the finding of the Assistant Collector that such blending amounted to manufacture of a new product and the blended dye is liable to duty under item 14D.2. Mr. Ashraf Marker, Manager of the appellant contends that this process was undertaken in response to orders from purchasers for specific shades. He contends except for the physical change the products do not change as a result of this process and such a process does not amount to manufacture.

3. The departmental representative contends that the products have been rendered suitable for use by consumers as a result of and thus as a result of manufacturing process and generally adopts the reasonings in the order of the Collector (Appeals).

4. The notice issued to the appellant does not indicate the basis for process undertaken amounted to manufacture of a new product. No such reason is present in the order of the Assistant Collector or Collector (Appeals). The burden of establishing that the process amounted to manufacture has not been discharged by the Department.

5. Further the process does not seem to amount to manufacture on the face of it. The dyes manufactured by the appellant are now classifiable under Chapter 32.04 of the tariff. This chapter contains a note for products of heading 34.06 other colouring matter. Heading 32.04 contains specific sub Headings for pigment or dyes in unformulated unstandarised and unprepared forms (for example wet cakes or press cakes) of S.O. dyes into their formulated/standardised or prepared forms ready for use in the process of dyeing would amount to manufacture and that mere repacking or relabelling of duty paid dyes would not amount to manufacture where no new product emerges. These views of the present tariff lays support to the view that such blending of dyes does not amount to manufacture. In any event as we have noted in the absence of any evidence or market inquiries to show that the different product has emerged, the contention that the goods are as a result of manufacture is without substance.