Collector of C. Ex. Vs. Rolls Prints (Packaging) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-08-1998

Reported in : (1998)(104)ELT712TriDel

Appellant : Collector of C. Ex.

Respondent : Rolls Prints (Packaging) Ltd.

Judgement :

1. In this appeal the Revenue has challenged the Commissioner (Appeals) order dated 9-6-1993 allowing M/s. Rolls Prints (Packaging) Ltd. The removal of inputs under Rule 57F(2) of the Central Excise Rules for further processing to the Job workers.

2. Briefly stated the facts are that the Respondents avail of Modvat credit of duty paid on the inputs under Rule 57A of the Central Excise Rules. They sought permission under Rule 57F(2) to send Printed Paper/Paper Board to job work for carrying out the process of cutting and creasing, stripping and gluing. The Assistant Collector under letter dated 24-9-1992 rejected the permission on the ground that according to Rule 57F(2), the goods resulting at job worker's premises should be returned to the Applicant's factory for further use in the manufacture of the final product; that the final product namely printed shell came into existence at job worker's premises; that inspection, counting and packing at the appellant's premises did not amount to further use in the manufacture of final product, and that the printed paper/board had not been declared as an inputs under Rule 57G and removal of such materials was not permissible under Rule 57F(2). On Appeal

filed by the assessee, the Commissioner (Appeals) set aside the Assistant Commissioner's order holding that as paper and paper board were not declared inputs, there was no question of applying the provision of Modvat Rules in respect of these materials; that the permission under Rule 57G(2) was, therefore in respect of the declared inputs, namely, ink and glue; the printed shells become finished goods only in the applicant's factory after subjecting them to inspection, counting and packing.

3. None was present on behalf of the Respondents when the matter was called inspite of the notice. Shri Satnam Singh, ld. SDR, submitted that the Respondents had not made any application for seeking permission to remove ink and glue under Rule 57F(2) of the Rules. The ink and glue were not semi finished goods and as such the Collector (Appeals) was not justified in observing that the Respondents could send semi-finished goods to job worker. He, further submitted that inspection, counting and packing would not amount to manufacture because the goods are not precision instruments etc. which require inspection and the inspection undertaken would be visual and packing was required only for one time transport of the shells to the cigarette manufacturer and no elaborate packing was required for these goods. He, therefore, contended that the Collector (Appeals) was not justified in extending the benefit of the provisions of Rule 57F(2) of the Central Excise Rules to the Respondents.

4. We have considered the submissions and gone through the records of the case. Rule 57F(2) of the Central Excise Rules enabled the manufacturer to remove the inputs as such or after the inputs have been partially processed during the course of manufacture of final products, to a place outside the factory (a) for the purpose of test, repairs, refining or carrying out any other operation necessary for manufacture of the final product and return to the factory for further use in the manufacture of final product or (b) for the purpose of manufacture of the intermediate products necessary for the manufacture of the final products and return the same to his factory for further use in the manufacture of final product. We observe that the Respondents had sought the permission to send printed paper/Board to job worker for carrying out the process of cutting and creasing, stripping and gluing.

Merely non-mention specifically of glue in the application form as one of the inputs to be sent to job worker will not affect the removal of glue by the Respondents under Rule 57F(2) as this was a merely procedural defect which is curable in nature. Moreover, one of the operation mentioned in the application was gluing. There is no substance in the argument of the Revenue that glue and ink were not semi-finished goods and the Collector (Appeals) held that the Respondents could send the semi-furnished goods. Rules 57F(2) clearly provided for removal of inputs as such also and not only for removal of semi-finished goods. It is not disputed by the Revenue that the Respondents were carrying out inspection, counting and packing. It is not only in the case of precision instrument alone that inspection is required as submitted by the Revenue. The manufacturers are quality conscious and before the removal of final product, inspection is one of the process which is carried out by the manufacturer. The definition of manufacture in Section 2(f) of the Central Excise Act, includes any process incidental or ancillary to the completion of a manufactured product. The law does not provide that only elaborate packing would be a process ancillary or incidental to the completion of a manufactured product. The Supreme Court in MRF Ltd. case 1995 (77) E.L.T. 433 (S.C.) has held that the question is not for what purpose, a particular kind of packing is done but the test is whether a particular packing is done in order to put the goods in the condition in which they are generally sold in the wholesale market at the factory gate. In view of this the Respondents have satisfied the requirement of Rule 57F(2) that the inputs/partially processed inputs on return to factory are put to use in the manufacture of the final product. Accordingly we do not find any reason to interfere with the impugned order and reject the appeal filed by the Revenue.