

Collector of Central Excise Vs. Raj Kamal Synthetics Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-05-1998

Reported in : (1999)LC445Tri(Delhi)

Appellant : Collector of Central Excise

Respondent : Raj Kamal Synthetics Ltd.

Judgement :

2. Respondents herein were issued a show cause notice dated 25-9-1991 that in undertaking refinishing on the duty-paid goods received under the provisions of Rule 173H of Central Excise Rules, 1944 they have undertaken the processes of bleaching, dyeing, printing, shrinking, proofing, tentering, etc., and thus the manufacture of processed fabric has taken place. Consequently, it was alleged that the respondents are not entitled to the benefit of the provisions of Rule 173H. On adjudication, the said allegations were confirmed and demand of duty of Rs. 79,819.00 was confirmed against the respondents herein.

3. On appeal, the respondents herein urged before the Collector (Appeals) that refinishing was done only on the defective finished goods. The finished goods were already dyed, printed, bleached, etc.

The refinishing which they did was only to remove the defects.

Therefore, it cannot be said that the respondents manufactured any new product. They merely removed the defects of the duty-paid finished goods received by

them under the provisions of Rule 173H. Consequently, they submit that they are entitled to the provisions of the said Rule.

Learned Collector (Appeals) accepted the submissions of the respondents herein. Hence, this appeal by the Revenue.

4. Now learned SDR, Shri A.K. Agarwal in support of the Revenue's appeal reiterates the grounds of appeal taken by the Revenue in its appeal memo which states that the process of refinishing done by the assessee amounts to manufacture in view of Section 2(f) of Central Excise Act, 1944 read with Chapter Note 3(d) of Chapter 54 of CETA, 1985. It has also been urged that the Collector (Appeals) has not spelt out the grounds by which he has satisfied himself about the veracity of the party's submission.

5. We have considered the submissions of the Revenue. We are not satisfied that the grounds urged are tenable. The very fact that the respondents have used the expression refinishing which indicates that the goods were already finished. In any case, in the show cause notice there was no allegation that the goods received under Rule 173H were not duty-paid finished goods. Once the goods received under Rule 173H are admitted to be finished goods, refinishing done by the processes mentioned in Section 2(f) and Chapter Note 3(d) *ibid* would not amount to manufacture of new product, because the product already received by the respondent was manufactured, i.e. the finished fabric.

Consequently, we do not find any substance in the Revenue's appeal.

Hence, we dismiss the same.

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