Commissioner of C. Ex. Vs. True Graph Charts Pvt. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-16-1998

Reported in : (1999)(105)ELT341TriDel

Appellant : Commissioner of C. Ex.

Respondent : True Graph Charts Pvt. Ltd.

Judgement :

1. This appeal arises out of the order of Collector of Central Excise (Appeals). In this appeal, the learned Collector (Appeals) held that merely cutting it into smaller rolls would not change its end use or identity.

2. The facts of the case are that the appellants are cutting jumbo rolls. The department alleged that after slitting, the goods fall for classification under Heading 48.23. The Assistant Collector held that thermal paper roll when cut in various sizes shall be classifiable under Heading 2823.90. In addition, the Commissioner (Appeals) following the decision in the Systems Packaging case reported in 1990 (43) E.L.T. 165 (Tribunal) held that smaller rolls do not become specifically identifiable as articles of paper and therefore, no process of manufacture was involved.

3. Against this finding, the department has filed the appeal on the ground that the process of cutting jumbo rolls into thermal paper rolls amounts to manufacture inasmuch as, the thermal paper roll is a different product by its name, shape and characteristics and having a distinct, different end use than the raw materials used

for the same.

4. Shri H.K. Jain, learned DR appearing for the appellants submits that a new article emerges when the jumbo roll is cut into smaller thermal papers. He submits that by the process of cutting, an articles emerges and therefore, the resultant product is classifiable under sub-heading 4823.90. He submits that the decision of the Tribunal in the case of Relco Paper Products 1989 (40) E.L.T. 435 (Tribunal) which holds that slitting and rewinding of jumbo rolls of duty paid paper into rolls of smaller sizes is not a process of manufacture resulting in the emergence of a new product, without appreciating the process of manufacture.

5. Shri R. Parthasarthy, learned Counsel submits that their case is squarely covered by the decision in the case of Relco Paper Products and Systems Packaging case. He submits that the facts of their case are identical to the facts which came up for decision in the case of Systems Packaging case. He submits that the Tribunal has in these two decisions held that cutting of jumbo rolls into smaller rolls does not amount to manufacture.

6. We have carefully considered the submissions made by both the sides.

We find that in the case of Relco Paper Products cited supra, the Tribunal no doubt had before it, the case pertaining to the period when old tariff was existing but what the Tribunal decided was about manufacture. We also note that in the case of Systems Packaging, identical facts were before the Tribunal when the Tribunal held that slitting of jumbo rolls into smaller rolls does not amount to manufacture. Following the decision in these two cases, we hold that slitting of jumbo rolls of thermal paper into smaller rolls does not amount to manufacture. In this view of the matter, the appeal of the Revenue is rejected.