Collector of Central Excise Vs. Super Soft Productions (P) Ltd.

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SooperKanoon Citation : sooperkanoon.com/15103

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-02-1999

Reported in : (1999)LC211Tri(Delhi)

Appellant : Collector of Central Excise

Respondent : Super Soft Productions (P) Ltd.

Judgement :

1. In the present case the respondents herein are purchasing softy shake mix from M/s. Dinshaw's Frozen Foods, whose case is already dealt with today in Appeal Numbers E/2603-2604/93-D. Thereafter the respondents are mixing various flavours in the said shake mix repacking them in 200 M.L. containers and selling them. The respondents claimed that their activities as aforesaid does not amounts to manufacture at all and therefore, the goods as sold by them (as described above) did not involve any duty liability.

2. This plea of the respondents, however, is rebutted by the ld. SDR on the ground that the shake mix as they purchased from M/s. Dinshaw's Frozen Foods was not marketable and it becomes marketable only after the flavours are mixed in softy shake mix and they are repacked in ready to serve units of 200 M.L. containers. We are unable to accept this contention of the Revenue inasmuch as in the appeal of M/s.

Dinshaw's Frozen Foods, it was contented by the Revenue that softy shake mix manufactured by the M/s. Dinshaw's Frozen Foods as liable to duty under Tariff

Heading 22.02 and this contention of the Revenue has been upheld in other judgment delivered today in the said cases. Since that has been held as dutiable under Tariff Heading 22.02, the further activity by adding flavours and by repacking in a small containers in 200 M.L. cannot be considered to be an activity of manufacture as rightly held by the lower appellate authority in the absence of any Chapter Note, during the relevant period, that repacking from bulk packs to retail packs amounts to a process of manufacture. We observe that this Note 2 has been added subsequently and was not present during the relevant period as pointed out by the lower appellate authority.

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