

Commr. of C. Ex. Vs. M. Vadilal and Co. (Ahmedabad) P.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-08-1999

Reported in : (1999)(112)ELT422TriDel

Appellant : Commr. of C. Ex.

Respondent : M. Vadilal and Co. (Ahmedabad) P.

Judgement :

1. The issue involved in this appeal preferred by Revenue is whether the sample folder manufactured by M/s. Vadilal & Co. are classifiable under sub-heading 4818.90 or as products of printing industry under Chapter 49 of Schedule to the Central Excise Tariff Act.

2. When the matter was called, no one was present on behalf of the respondents, who, under their letter dated 15-12-1998, have requested to decide the matter on the basis of arguments submitted by them. We, therefore, heard Shri V.M. Udhoji, Id. JDR, and perused the records.

The Id. JDR submitted that the impugned product is not a product of printing industry, as it is not used for any purpose of communication of knowledge; that "sample folders" are known in the market as sample folder, that the printed sample folders are used for keeping the samples of the cloth of the different companies; that what has been printed on sample folders is only indicating the name and details of the company manufacturing the product.

3. The respondents, in their written submissions have contended that the printed sample folders are a product of printing industry since the customers requiring such printed sample folders would go to the printer to have that product manufactured depending upon the lay out or designs suggested by the printer and approved by the customer; that the main ingredient is the cost of printing for the sample folders; that the sample folders are printed with eye-catching designs suitable to the textile product and according to the designs suggested or approved by the customers. They finally submitted that the printed folders do communicate knowledge as to the quality of the sample fabrics contained therein and other features thereof. I.T.C. Ltd. v. C.C.E., Madras reported in 1998 (97) E.L.T. 401 (S.C.), in which, it was held by the Supreme Court that the articles whose primary use is for packing of cigarettes are not products of the printing industry since printing is merely incidental to their primary use, the items are correctly classifiable under Chapter 48 of the Central Excise Tariff Act.

5. We have considered the submissions of both the sides. The sample folders are used for keeping the samples of the fabrics. The primary purpose of the sample folder is to contain samples, the printing is only incidental as without printing also the sample folders can be used as sample folders. Relying upon the ratio in I.T.C. case, referred to above, we hold that the printed sample folders are not products of printing industry and are classifiable under subheading 4818.90 of the Central Excise Tariff. Accordingly, the appeal filed by the Revenue is allowed.

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