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Collector of Central Excise Vs. Jalpac India Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-02-1999

Reported in : (1999)(113)ELT505TriDel

Appellant : Collector of Central Excise

Respondent : Jalpac India Ltd.

Judgement :
1. The issue involved in the appeal preferred by the Revenue is whether the benefit of Notification No. 14/92-C.E., dated 1-3-1992 is available to Polyester/Polypropylene plastic film scrap.

2. Shri A.M. Tilak, learned DR, submitted that the Respondents, M/s.

Jalpac India Ltd. manufacture BOPP film. The Assistant Commissioner denied them the exemption to scrap under Notification No. 14/92 (Sl.

No. 19) holding that waste, pairing and scrap had arisen during the process of finishing the metalised / lacquered polyester film; that waste etc. was generated in the form of cutting and trimmings of film on which appropriate duty of excise had not been paid and as such the condition of the Notification was not satisfied. However, Commissioner (Appeals) had set aside the order by the Assistant Collector. The learned DR further submitted that the Respondents had availed of the Modvat credit of duty paid on plastic granules out of which BOPP film was manufactured; that uncut/untrimmed polyester film was non-duty paid and the condition for availing the notification is that the waste should have arisen from the goods on which duty leviable thereon has been paid; that as waste had arisen from non-duty paid BOPP film, the condition stipulated in the notification had not been complied with and accordingly exemption under notification is not available.

3. Shri A.R. Madhav Rao, learned Advocate, submitted that waste had arisen not by process of manufacture but had arisen during the course of manufacturing process of the end products; that as the duty had been discharged on plastic granules, the condition of the notification has been complied with; that the Appellate Tribunal in the case of Anand Polyrotex v. C.C.E. 1991 (56) E.L.T. 537 held that plastic waste and scrap arising in the course of manufacture of polyethylene film from duty paid raw material is exempt from duty under Notification No.222/86.

4. We have considered the submissions of both the sides. Notification No. 14/92, dated 1-3-1992 provides nil rate of duty in respect of waste, pairing and scrap of plastic provided that such waste pairing and scrap of plastic arises from goods falling under Chapter 39 or any other Chapter of the Schedule to the Central Excise Tariff Act on which the duty of excise or Additional Customs duty leviable thereon has already been paid. It has not been disputed by the Revenue that the respondents had brought the duty paid inputs; i.e. plastic granules, out of which final product has been manufactured. The benefit of notification has been sought to be denied by Revenue as, according to it, a new distinct and identifiable product has emerged on which duty has not been paid. We are of the view that once it is not disputed that the final product had emerged out of duty paid inputs, the benefit of Notification No. 14/92 cannot be denied to the Respondents as they had complied with the condition stipulated in the notification, i.e. the waste and scrap has arisen from goods falling under Chapter 39 of CETA on which duty has been paid. The waste and scrap had arisen during the process of manufacture of their final products and as such the benefit of Notification No. 14/92 is available to the respondents in respect of waste and scrap. Accordingly we reject the appeal filed by the Revenue.

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