

Grasim Industries Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-16-2000

Reported in : (2000)(121)ELT734TriDel

Appellant : Grasim Industries

Respondent : Collector of Central Excise

Judgement :

1. The issue in this case relates to excisability of punched dobby cards of plastics, made in the factory of the appellants herein - according to the Revenue, punched dobby cards of plastic are excisable goods falling for classification under CET Sub-heading 3926.90, not eligible to the benefit of Notification 132/86 as amended by Notification 53/88,14/92 and 15/94-CE., while according to the assesseees, the process of punching of duty paid plain plastic dobby cards does not amount to manufacture so as to result in any distinct commercial commodity attracting duty liability. Their alternate submission is that in the event of it being held that the punched plastic dobby cards are excisable goods, then the benefit of the Notifications should be extended to them. Shri Dinesh Mills Ltd. v. Collector of Central Excise reported in 1999 (105) E.L.T. 308, the Tribunal has held that punching of plastic/paper sheets for conversion of the same into dobby cards used by the assesseees on looms to obtain woven design on fabrics amounts to manufacture of a product classifiable under CET Sub-heading 3926.90 (plastic dobby cards) and 4823.90 (paper dobby cards). The argument of the assessee that the activity of punching does not result in the manufacture of a distinct

commercial commodity having new name, character and use has been rejected. This decision has been relied upon in the case of Garden Silk Mills Ltd. v. Collector of Central Excise, Surat reported in 2000 (116) E.L.T. 349. In the case of Hindustan Spinning and Weaving Mills v. Collector of Central Excise reported in 1998 (104) E.L.T. 650, the Tribunal has held that the punched dobbie cards are marketable. In the light of the above decisions, the contention of the appellants that the activity carried out by them on plain plastic dobbie cards merits rejection.

3. As regards the alternate plea, although in the case of Hindustan Spinning and Weaving Mills (supra), the benefit of Notifications 53/88-CE and 14/92-CE has been denied on the ground that the punched plastic dobbie cards are manufactured out of films falling under Heading 39.20 of the Schedule to the CETA, 1985 and not from inputs falling under Headings 39.01 to 39.15 *ibid* as required under the relevant SI.

Nos. of the above Notifications, we agree with the learned Counsel that attention of the Bench was not drawn to certain Board's Circulars on this issue. The Board's Circular No. 44/90-CX.3 dated 22-8-1990 has been taken note of in the case of Collector of Central Excise, Bhu-baneshwar v. Eleconnet Ltd. reported in 1999 (108) E.L.T. 795 wherein the Tribunal has held that in view of the Board's clear direction, it cannot be argued by the Revenue that since bare plastic films paid duty under Tariff Heading Nos. 39.01 to 39.15, metallised plastic films will not be entitled to the benefit of exemption Notification 53/88-CE dated 1-3-1988. The Tribunal has held that nevertheless the Revenue is entitled to verify that plastic films received by the respondents herein have been manufactured out of duty paid primary plastic materials which have discharged duty liability under Heading 39.01 to 39.15 and for this verification, the matter has been remanded. The Tribunal's order in the Eleconnet case is required to be followed in this case also in view of the Board's Circulars. We, therefore, set aside the impugned order and remand the matter for the purpose of verification for satisfaction of the Assistant Commissioner as to whether the polyester films out of which end punched dobbie cards and subsequently body punched dobbie cards are manufactured had discharged duty liability under Headings 39.01 to 39.15. If the Assistant Collector is so satisfied, then he shall extend the benefit of Notification 132/86 as amended

by Notification 53/88 and 14/92. For the period from 1-3-1994 to May 1994 (show cause notice covers the period from 1987-88 to 1994-95 up to May 1994), the Assistant Collector shall satisfy himself on the basis of records that credit of duty paid on inputs used in the manufacture of the body punched dooby cards has not been availed of under Rule 57A of the Central Excise Rules, 1944, in view of the fact that Notification 15/94 dated 1-3-1994 contains only the condition against Sl. No. 21 of the table annexed thereto (relevant Sl. No.) that no credit of duty paid on inputs used in the manufacture of such goods should have been availed of under Rule 57A.4. In the result, we hold that the body punched dooby cards of plastic manufactured by the appellants herein are excisable goods classifiable under CET Sub-heading 3926.90 and remand the matter of eligibility to the benefit of Notifications claimed by the assesseees to the Assistant Commissioner, who shall act according to the guidelines set out in the preceding paragraph. The appeal is disposed of in the above terms.

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