

Commissioner of Central Excise Vs. D.K. Processors (P) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-28-2000

Reported in : (2000)(122)ELT802TriDel

Appellant : Commissioner of Central Excise

Respondent : D.K. Processors (P) Ltd.

Judgement :

1. In this appeal, the Revenue has questioned the validity of the impugned order-in-appeal dated 28.03.2000 passed by the Commissioner (Appeals) vide which he had reversed the order-in-original of the Addl.

Commissioner confirming the duty demand of Rs. 5,74,9987- and Rs. 14,82,7637- on the respondents.

2. The facts are not in dispute. The respondents are engaged in the processing of fabrics given to them by the principal manufacturers on job work basis. They undertake the process of heat setting and stentering on such fabrics sent to them by the principal manufacturers, under Rule 57F (3) of the Central Excise Rules, 1944. The Revenue Department raised the duty demand for the period Dec., 1995 to June, 1996 from them for this job work by serving them two show cause notices. But they contested the correctness of the show cause notices on the ground that they being job workers were not liable to discharge the duty liability as the principal manufacturers cleared the fabrics under Rule 57 F (3) (4) of the Rules. The Addl. Commissioner however did not agree with their version and confirmed the duty

demand on them through the Order-in-Original. This order was however set aside by the Commissioner (Appeals) through the impugned order by following the ratio of the law laid-down by the Tribunal in the case of M. Tex and Am. v. CCE, Jaipur - 2000 (39) RLT 1091 (CEGAT).

3. We have heard Shri S.N. Singh, SDR for the appellants/Revenue and Shri R. Swaminathan, Consultant for the respondents.

4. It has been fairly conceded by the Id. SDR that the case of the respondents is fully covered by the ratio of the law laid-down by the Tribunal in the case of M. Tex and Am. v. CCE, Jaipur (supra). In that case, the Tribunal has taken a view that where the job workers after processing the fabrics received from the principal manufacturer had returned the same under Rule 57F (3)/57F(4) of the Rules, they will not liable to pay duty on processed fabrics. The ratio of the law laid-down in that case fully applies to the case in hand as the respondents as job workers undertook the process of heat setting and stentering on the fabrics supplied to them by the principal manufacturers and returned the same to them, who then cleared on payment of duty.

5. Therefore, the impugned order of the Commissioner (Appeals) absolving the respondents of their liability for payment of duty by reversing the order of the Addl. Commissioner, is perfectly valid and does not suffer from any legal infirmity.

6. Consequently, there is no merit in the appeal of the Revenue and the same is dismissed. Ordered accordingly.

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