Swastik Packaging Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-30-1985

Reported in : (1985)(5)LC2446Tri(Delhi)

Appellant : Swastik Packaging

Respondent : Collector of Central Excise

Judgement :

1. The questions arising for decision in this Appeal to the Tribunal are whether printing on duty-paid aluminium foils clone by the appellants on job work basis again attracts levy of Central Excise duty and, if not, whether : (i) the appellant is the manufacturer in respect of such printed foils; (ii) if so, whether the appellant is eligible for concession of proforma credit procedure under Rule 56A without having followed the procedure prescribed under the rules ; (iii) is eligible for benefit to exemption under Notification No. 71/72-CE, dated 17-3-72 as in force at the relevant time ; (iv) is eligible to benefit of exemption under Notification No. 155/72 dated 15-6-72 duty being collectable only on quantity in excess of 5 MT; (v) the special excise duty should have been calculated at the rate of 5% and not at the rate of 10%; and (vi) whether the imposition of penalty and redemption fine in respect of confiscated goods and confiscation of land, building, plant, machinery and materials with option to redeem the same on payment of fine of Rs. 10,000 are legal and justified.

2. The appellants are engaged in printing of duty-paid aluminium foils on job work basis falling under Tariff Item 27 (c). The duty paid aluminium foils are received by

the appellants mainly from pharmaceutical concerns. It appears that the appellants had filed a classification list No. 1/79 claiming concession under Notification No.155/72. The appellants argue that they were under bona fide belief that so long as their clearances were below 5 MT they were not required to pay any central excise duty and on the clearances exceeding 5 MT they were required to pay duty only on quantity in excess of 5 MT. The appellants were clearing the printed foils without payment of duty on their own serially numbered delivery challans without maintaining any excise accounts or submitting any RT 12 returns. The present proceedings are the outcome of transit check by excise authorities on 7-7-80 when they intercepted a tempo bearing registration No. MRL 1175.

The vehicle was found to be loaded with printed aluminium foils. After the usual investigation and enquiry the Assistant Collector of Central Excise (Prev.) Hqrs. Bombay served show cause notice dated 5-1-80 to appellants M/s. Swastik Packaging, Bombay, and to two other parties calling upon them to show cause to the Collector of Central Excise (i) as to why for the period 14-5-79 to 7-7-80, including seized goods in transit, central excise duty amounting to Rs. 5,92,400.15 at appropriate rate be not demanded and recovered on 26871.060 Kgs. of printed aluminium foils; (ii) 104 Rolls totally weighing 1121.300 Kgs of printed aluminium foils seized on 7-7-80 be not confiscated; (iii) penalty be not imposed; and (iv) land, building, plant, machinery and materials used in connection with manufacture, production, etc., of the said goods be not confiscated. Appellants M/s. Swastik Packaging, Bombay, by their reply dated 4-9-81 submitted that they had done job work on duty paid aluminium foils mainly supplied by pharmaceutical concerns and duty could not be levied twice under the same sub-tariff item. Printing of foils is not a process of manufacture inasmuch as no new product having different characteristics and uses comes into existence. In case of printing of aluminium foils there was no amendment in section 2(f) of the Central Excises and Salt Act, 1944 (hereinafter called the Act) as in case of printing of plain containers so as to include lacquering and printing of the same as process of manufacture. Duty liability was not on the appellants but on the pharmaceutical concerns who had supplied the foils to the appellants if it be held that the process constituted a manufacture and appellants were manufacturers. Reliance was also placed on Notification No, 305/77, dated 5-11-1977 which exempts de jure

manufacturers from payment of duty subject to certain conditions and filing of declaration. Plea of limitation was also taken up. Reliance was placed also on Notfn No. 155/72, dated 15-6-72 which according to the appellants provides for payment of duty only on clearances in excess of 5 MT. Valuation of the foils was also challenged. The calculation of demand of duly was also challenged and it was asserted that duty if at all payable would work out to Rs. 54,737.20 and in respect of the seized goods the appellants had already paid duty amounting to Rs. 22,104 on provisional release. Thus, the total duty if at all payable would be Rs. 27,633.02. Before the Tribunal further reliance was placed on Notfn. No. 71/72-CE dated 17-3-72 as in force at the relevant time.

The Collector of Central Excise, Bombay I, after following the usual procedure and hearing the appellants negated all the pleas and demanded duty, imposed penally and redemption fine and ordered confiscation on land, building, plant, machinery and material as already set out above.

Aggrieved, the appellants have filed present appeal to the Tribunal.

3. At the hearing of the appeal the appellants sought leave of the Bench to raise an additional ground, i.e. claiming benefit of exemption Notification No. 77/72-CE, dated 17-3-72 as in force at the relevant time. Permission to do so was granted and arguments then proceeded with.

4. The first contention of Shri V.J. Tarapvrwala, the learned Advocate for the appellants, is that printing of duty paid aluminium foils does not constitute manufacture or a process of manufacture. Central excise duty could be levied only when printing on aluminium foils constituted a process of manufacture within the meaning of Section 2(f) of the Act and not otherwise. He argued that after decision of Gujarat High Court in Extrusion Process Pvt. Ltd. v. N.R. Yadav reported in 1979 E.L.T. J 380 holding printing and/or lacquering of plain aluminium containers is not a process of manufacture, Section 2(f) of the Act was amended to include in relation to aluminium lacquering or printing or both of plain containers to mean manufacture within the meaning of the provision by inserting Clause (viii) in the Sub-section. In case of Aluminium foils there was no such deeming definition. To emphasise his point Shri Tarapurwala took us through Financial Bill, 1972 as

introduced in the Lok Sabha on March 16, 1972 to give effect to the financial proposals of the Central Government for the financial year 1972-73. The Bill substituted sub-item (c) in Item No. 27 of the Central Excise Tariff which is the item as it was in force at the time relevant for the present dispute, and even now. He also referred to Bill No. 99 of 1980 as introduced in Lok Sabha on 18th June, 1980 to give effect to the financial proposals of the Central Government and the Notes on Clauses annexed thereto. In particular he referred to Notes on Sub-clause (a) of Clause 46 alongwith sub-clause (ix) of the Notes and Clauses which dealt with amendments to Item No. 27. This was to illustrate his point that Aluminium foils could not be covered within the meaning of aluminium as set out in sub-item (c) of Item 27 of the CET. Relying on Deshbandhu Gupta & Co. and Ors. v. Delhi Stock Exchange Association Ltd. [1979 (4) SC 565] he submitted that these documents on the Doctraine of Contemporanea Expositio could be looked into to find the true intention of the law makers. In particular, he relied on a Supreme Court decision in Collector of Customs and Central Excise and Anr., v. Oriental Timber Industries [1985 (20) E.L.T. 202 SC] and argued that regard being had to the words used in sub-item (c) of Item 27, duty could not be levied again when duty paid foils were printed. Even after printing, foils remain foils. Duty could be charged only at one stage and not again when foils were printed or subjected to processes set out in the sub-item. Strongly relying on the Supreme Court decision which is a case relating to Item 16-B dealing with Plywood, he submitted that the words used in the two Items are similar and the decision given by the Supreme Court in relation to plywood could squarely be applicable in case of aluminium foils covered by sub-item (c) of Item 27 of CET.5. Shri H.L. Verma, learned SDR, invited the attention of the Bench to the Classification list filed by the appellants which is available at page 2 of the Paper Book. According to this list, the appellants admitted that printing of aluminium foils constituted manufacture within the meaning of Item 27(c) of CET and the appellants having made this admission it was not open to the appellants to claim that printing of foils did not constitute manufacture. He also stated that the scheme of the words used in the sub-item indicated that the intention was to charge duty at every stage mentioned in the Item and each stage constituted manufacture to attract levy of central excise duty. In support of his argument he relied on Supreme court decision in J & K Steel Ltd.

v. Union of India A Ors., (1978 E.L.T. J 355). Relying on Hyderabad Ashes ton Cement Products Ltd. and Ors. v. Union of India and Ors., [1980 E L.T. 735 (Delhi)], a Delhi High Court decision, he submitted that as in sub-ilem (c) of Item 27 printing of foils was mentioned, it became a stage of manufacture and, therefore, the question whether or not there was in fact manufacture or printing constituted a process of manufacture was irrelevant as Legislature had treated the process to be manufacture by mentioning printing in the sub-item (c). Reference in this connection was also made to a decision of the Tribunal in Collector of Central Excise, Hyderabad v. Uma Laminated Products Pvt. Ltd. [1984 (17) E.L.T. 187], and Lallubhai Aminchand Ltd, Bombay v. CCE, Bombay,-1984 (18) E.L.T. 319.

6. For proper appreciation we may first deal with the Supreme Court decision in the Oriental Timber Ind. case relied on by Shri Tarapurwala. The decision relates to Item 16-B dealing with plywood.

Item 16-B of the CET as it stood at the material time is extracted in para 14 of the decision and for proper appreciation and ease of reference is extracted below : "Plywood, block board, laminboard, batten board, hard or soft wall boards or insulating board, and veneered panels, whether or not containing any material other than wood; cellular wood panels; building boards of wood pulp or of vegetable fibre, whether or not bonded with natural or artificial resins or with similar binders : and artificial or reconstituted wood being wood shavings, woodchlps, saw dust, wood flour or other lineous waste agglomerated with natural or artificial resins or other (organic binding substances, in sheets, blocks, boards or the like)." For the same reasons, sub-item (c) of Item 27C 'Aluminium' is also extracted below : (c) Foils (whether or not embossed, cut to shape, perforated, coated, printed, or backed with paper or other reinforcing material) of a thickness (excluding any backing) not exceeding 0.15 mm.

7. Dealing with interpretation of the item the Hon'ble Supreme Court in para 16 of the decision inter alia observed as under : "The main provision in Item 16-B indicates that plywood is liable to excise duty whether in Sheets, Blocks, Boards or the like." "A proper reading of this item indicates that plywood, except in case of tea-chests, is liable to be charged at the rate of 15% ad valorem whether in

sheets, blocks, boards or the like. In other words, this item makes it clear that the excise duty is payable on plywood whether in sheets, blocks, boards or the like at the rate of 15% ad valorem, except in the case of plywood for tea-chests; and in case of plywood for tea-chests when cut to size in panels or shooks and packed in sets, duty payable is 10% ad valorem." And in the end, which according to Shri Tarapurwala is the crucial observation, they observed as under : "No question of double taxation arises as duty is leviable only once on the plywood as it comes out of the press in the panel or block stage and no further duty is to be levied on the circles which are made out of the plywood blocks or panels." An examination of sub-item (c) extracted above in comparison with item 16-B dealing with plywood examined in the light of the foregoing shows that the intention of the sub-item is to charge duty once on foils whether or not they be in any of the stages mentioned in the sub-item and otherwise fulfilling the condition of thickness set out therein. It is also significant that Section 2(f) (viii) of the Act as amended in 1980 in relation to Aluminium refers to lacquering or printing of plain containers but not to foils. Thus viewed, aluminium foils when printed would not in view of the above Supreme Court judgment attract duty again at the printing stage if duty had already been paid at the stage when foils were first produced. As to the decisions on the point relied on by Shri H.L. Verma, the decision in JK Steel Limited by the Supreme Court was on a different point. As to the decision in Hyderabad Asbestos Cement, the question for decision here is not whether printing on duty paid foils constitutes manufacture or a process of manufacture but whether on the words used in sub-item (c) of Item 27, duty is again collectable at the printing stage when the foils have already discharged duty liability at the initial stage. As for Shri Verma's reliance on the CEGAT decision in Lallubhai Aminchand Ltd., Bombay v.Collector of Central Excise, Bombay [1984 (18) E.L.T. 319] it is sufficient to say that in that case the sub-item used the word 'manufacture' with respect to each of the stages mentioned in the sub-item. That is not the case here. The decision would, therefore, not be applicable to the present case.

8. As per the argument that the appellant had filed classification list claiming exemption under Notification No. 155/72-CE and, therefore, was precluded from pleading that printing of foils did not constitute manufacture and attract levy of central excise duty, it is sufficient to say that in taxation matters there is no

estoppel and it is also well settled that an admission on point of law is not binding on the parties and can always be explained. The appellant on undisputed facts cannot be prevented from urging that printing of foils does not again attract levy of central excise duty.

9. On the words used in sub-item 27 (c) extracted above and in comparison with Item 16-B in respect of which there is a direct Supreme Court decision, it would appear that the duty is not again leviable at subsequent stages set out in the sub-item. Shri Tarapurwala's contention on this account must be upheld. Once it is so held that the demand of duty against the appellants cannot be sustained nor can the demand of penalty or redemption fine. In the view we take on the first ground, a discussion of the other questions whether appellants were eligible to concession under various notifications mentioned above or to proforma credit under 56-A do not require any decision from us. For purposes of record, however, we might state that Shri Verma representing the respondents stated that demand of special excise duty should have been calculated at the material time at the rate of 5% and not at the rate of 10%.

As a result of the aforesaid discussion we hold that appellants could not be called upon to pay duty on the job work of printing on duty-paid aluminium foils. The demand of duty therefore from them and imposition of penalty, confiscation and redemption fine are set aside and the appeal allowed.

10. Once a duty has been recovered on an article, that duty cannot be recovered again on that article. It would be a different proposition if the law permits this : for example, the law can say that duty X can be recovered on a given article chargeable with it, three times. That means an article chargeable with duty X will have to bear this X duty three times. At present the law does not say so and therefore no one can do so. If article A has paid a duty that duty cannot be recovered on it again. An extension of this principle is that as long as the article remains in the same category or grouping in which it has paid duty, it cannot be made to pay that same duty again, even if it changes character from one form, shape, character in that category/grouping, to another form, shape, character, in the same category/grouping, even when this change results in a new article. For

example, the paper which has paid duty as a paper cannot be charged with the same duty if it remains in the same category even though it has been coated, laminated or treated, as long as it remains in the same category/grouping or class or item or sub-item in which it was when it paid the duty as a paper. In a word, a duty once paid need not be paid again.

11. This aluminium foil was received by Swastik Packaging, Bombay, as a duty paid aluminium foil; that duty was paid under item 27(c), C.R.T.Swastik Packaging did what they call job work on the aluminium foil, the work consisting of printing on the foils. The central excise authorities said that the foils cleared by M/s. Swastik Packaging would have to pay duty and the duty the authorities wanted to be recovered was duty under Item 27(c), C.E.T. This is evidence that the central excise authorities held the printed foils to be stiUaluminium foils, otherwise they would not classify and charge them to duty under Item 27(c) after they were printed Swastik Packaging factory.

12. I hold that this is not permissible. The aluminium foil has paid duty as an aluminium foil; now the central excise require that it should pay the same duty a second time. The law does not permit at present that the same .duty should ..be recovered once :again. The aluminium foil after printing may be said, to have on it the name of some manufacturers and colours which it did .not have before. There can be a great deal of debate if this constituted manufacture, and well it might be; but whether manufactured or not, the aluminum foil cannot be subjected to the same duty again a second time even if it has changed its looks and colour and perhaps its utility. This is a fundamental law of taxation and specially of central excise taxation in India. Whenever a change, however small, must necessitate a duty, that duty takes recourse to a new item or sub-item i.e, a new head. Because of the change, the article enters a new head and is subjected to a new duty.

One instance will do. Item 27(a)(i) covers aluminium ingots, bars etc.

If this ingot or bar is changed or fabricated into a wire bar or wire rod, it will have to pay duty under Item 27(a)(ii). The reason is simple-this wire bar or wire rod has not paid the duty under Item 27(a)(ii)-the duty it had paid, duty under Item 27(a)(i), was for another form commodity, ingot. A plate of aluminium which has paid duty

under Item 27(b) can be charged to duty again under Item 27 (d) if it is fashioned or shaped and made into a pipe or a tube. Though the substance is the same, aluminium, the tariff headings/ groupings are different: one is a heading for ingots, the other a heading for wire bars, each carrying a separate duty for the group of commodities it covers. But the duty paid aluminium ingot will not attract duty if it is changed into a slab, because as slab it would have to pay the same duty it paid when it was in the form of an ingot. However, when the slab changes into a wire rod, the wire rod cannot be said to have paid the duty that the bar paid and therefore, fresh duty will have to be paid on the wire rod under Item 27(a)(ii).

13. We do not have that situation in this case. The foil item is only one, namely "FOILS", of thickness not exceeding 0.15 mm. All foils embossed or not, perforated, coated, printed etc., etc. are assessable under this item, if the thickness does not exceed 0.15 mm. The department says that the printed aluminium foils fall under the same item. This foil on which the central excise want to recover duty has already paid the very same sub-item duty once before and therefore it is illegal to recover that (same) duty a second time.

14. Much has been said, written and argued not only here but in hundreds of cases about the meaning of "manufacture" and what it means in central excise. The Act does not define this word, Section 2(f) of the Central Excises and Salt Act, 1944 only says what it includes, not what it means. As a result, the meaning of "manufacture" has had to be interpreted by the Supreme Court to lay to rest the raging controversies that beset the system. The most classic and fundamental of these interpretations was the DCM judgment which everybody who has had anything to do with central excise knows practically by heart. It forms the foundation and the touchstone by which we judge whether or not there has been a manufacture in order to test the cxcisability of a product. This judgment has been as often misunderstood as understood.

15. Arguments have been advanced, generally by the central excise department, that when a product is subjected to a process which changes it in one or two details, such (changed) product must be charged to duty again as such (changed) product, if not under the same item, as in this dispute, then Item 68, sometime

even when the product after the so-called change remains the same product. The claim has been made that it must somehow be adjudged a new entrant into the tariff and so must be taxed, if need be, by the very same duty which the product had already borne before the change or process. In this way a paper that has paid duty as a paper, is required to bear duty again if it is creped, design printed, impregnated, even though the new duty is the same one, under the same tariff sub-item, as the one it paid before the treatment. Under this scheme the paper must pay a duty; after impregnating it again pays the same duty; and if it is then design printed, it must for the third time pay the same duty. Or when the process does not yield a product that can be fitted into a description, it (product) is impelled into Item 68, the catch-all refuge. The construction seems to be that no matter what, if a thing acquires anything it did not have before, it must pay duty again under the same item or under Item 68. It may be only a change of colour, or it may be a change from square to circular, or it may be laminate of two layers instead of the single unlaminated sheet-but the call goes forth that a product has appeared which deserves the honour of paying tax. And to crown it, there have been instances when a product that was classified as a good-not-elsewhere-specified was again said to have changed, and changed into what into a good-not-elsewhere-specified; and all because it was concentrated by having unwanted associated impurities separated by mechanical means. In this present dispute, a foil has become a foil and, therefore, so goes the central excise argument, must pay foil duty once again.

16. All this is because people have understood every alteration, every modification, every adaptation, every improvement, in fact, everything that in their opinion looks like a change, to mean a change equivalent to a manufacture and that every such manufacture must be visited with excise duty, the basis for this understanding being the famous DCM judgment. That great judgment does not support this understanding. It is a precise enunciation for a definite application. It governs a case where the dispute was "Has this thing which had never paid this duty, become assessable to such duty ?" The central excise wanted to assess the oil to duty under Item 12 of the CET, the producer of the oil resisted it. The Supreme Court, after going into the technology of the oil processing practices, pronounced the oil not ready for entry into the item as it had not fully qualified for

such entry. The rule laid down by the Court was to regulate entry into an assessment item-no product can enter an item to be taxed unlesss it fully qualifies to enter such item. It was not to enable anyone to say that there has been "manufacture" and so excisability must follow. And when the Court discussed the meaning of manufacture, it was for the purpose of determining if the oil called by the central excise refined oil, had, by one or two processes it had undergone, ceased to be unrefined oil to qualify as refined oil in order to enter central excise Item 12. In spite of the two processes, neutralization and bleaching it had been put through, the Court decided that, unless it was also deodorized, it would not be a refined oil. At para 13 the Court wrote- "On a consideration of all these materials we have no doubt about the correctness of the respondent's case that the raw oil purchased by the respondents for the purpose of manufacture of Vanaspati does not become at any stage "refined oil" as is known to the consumers and the commercial community." 12. The judgment does not say there has been a manufacture of refined oil because of the neutralization and bleaching of the raw oil, and, therefore, the bleached neutralized oil must enter Item 12. The Court recognized manufacture to involve change, but did not forget to warn that every change was not a manufacture. Nor did it lose sight (see para 15 of the judgment) of the fact that the dispute was a dispute about "goods", and that "excisable goods" had been defined by the Central Excises and Salt Act, 1944. It is not difficult to see that the Court was directing its enquiry towards manufacture of excisable goods.

18. It is only this kind of manufacture that interests us. "Has there been a manufacture of an excisable goods'?" is the question we need to answer, and not "Has there been a manufacture ?" Because .even if there has been a manufacture, as long as there has not been a manufacture of excisable goods, the central excise laws are not activated. A mechanical application of the formula of manufacture can lead to incorrect results. If we take the DCM case, there had clearly been a manufacture, some manufacture, when the raw oil was bleached and neutralized. The resultant oil was certainly a different oil in more ways than one-it was a whiter (less coloured) oil and much less acidic, and there have appeared operations which, very frequently in central excise constructions, have been taken to signify the emergence of a "manufactored" product and indeed that

was what the department did in that case. The Supreme Court ruled that until the manufacture reaches such a stage that a marketable goods is produced and capable of entering the tariff item prepared for it, it does become subject to the duty sought to be put oh it. All this was in the context of a change or changes that required a determination if the article or product sought to be levied to excise duty should bear that duty, a duty it had never borne before. Even so, the Hon'ble Court said the product could not be taxed as it was not fully ready for the item.

19. It is clear to me that not any and every change or process on a product will call down excise duty on it. It is even clearer to me that the word "manufacture" cannot be endowed with the power to charge to a duty a product that had paid that duty. Only that manufacture will bring in its wake excise duty, which qualifies a product for entry into an excise heading it had never entered, and suffered duty under before.

It is not a manufacture approved by a Supreme Court, which merely works a change in a product without taking it out of the heading in which it had already discharged duty. And it follows from this that no article, product, commodity, can be charged the same duty twice, no matter what is done to it. And no matter what form it had in the past duty-paying identity, it will not have to pay that duty ever again.

20. This imprinted foil after printing became (or remained) a foil. It did not move out of the item in which it discharged duty. There is no law to sanction foil duty on it again. "Manufacture implies a change, but every change is not manufacture" are words that ring with an ageless wisdom. But "there must be transformation". It is difficult to see the transformation here; all we can see is a change. "A new and different article must emerge having a distinctive name, character or use". Has there been a new name The "new" article is still called an aluminium foil by the department itself, who wants to assess it under an aluminium foil item/sub-item. A new character The "new" foil remains a foil, a leaf whose thickness is measured in fractions of a millimetre, with the same character of conductivity, yield strength etc. that all foils have. The printed foil does not behave any different from the imprinted foil; its character remains what it was.

What about the use An imprinted aluminium foil can be put to the use a printed foil can be put, like wrapping. A printed foil carries printed representations but this is not the use of the foil, only the presence of the printed matter. It is not that the (printed) foil has acquired a new use by reason of a property imparted to it. In fact, printing merely extends the use of the same (imprinted) foil; it is an improvement, a refinement. Its use is no less as a foil, though as a printed aluminium foil. I wonder whether a sheet of metal painted with a name, has become a product with a new use, whether its use as a sheet of metal has been lost. I think not.

21. It is frequently advocated that name, character, use are to be read as single alternates i.e. if any one of them is satisfied, then there has been a manufacture, and all the consequences will follow. There are a gobd many encumbrances to this rendering. To take; use;-under this explanation, if a material.has acquired a new use, it is enough to qualify as a new product, though its name and character remain unchanged. Then will a chemical become a new manufacture because one day a hitherto unknown property' is discovered in it, such as, say, an ability to neutralize aflatoxins Its name and character are the same but it has been put to a new use, the new use being due not to any change in its nature but to the discovery of an unsuspected attribute.

It has a new use-one it did not have before. Has it become a new manufacture Will it attract fresh excise duty And if a second chemo-therapic property is discovered a year later, will it be charged duty a third time Or will duty be charged for every use the chemical has-and let it be borne in mind, a chemical can have several uses, each incompatible with the rest.

22. This is the state of reductio ad ahsurdum to which we shall reduce ourselves by an undiscriminating application of the ruling. There are others equally humorous. The judgment has a meaning that must be carefully gleaned and then pondered upon.

23. My main objection, however, is not that there has or has not been a manufacture. I hold that even if there has been a manufacture, the product or commodity cannot be charged the duty it has already paid under an item or a sub-item, a second time. If the manufacture leaves the product in the same item or

sub-item, it cannot be required to bear that duty again. Manufacture qualifies a thing for entry into an item/sub-item for payment of duty only once. That qualification holds true for all time and that duty paid on that first qualification cannot be exacted ever again on that thing. The imprinted foil qualifies to pay duty under Item 27(c) because it has never paid that duty. The foil, after printing, also qualifies to pay duty under Item 27 (c) if it had never paid that duty. The different forms will permit duty to be exacted (in the form the foil is presented for assessment) even when the item says only "Foils", as long as the substance, foil whether printed, embossed, coloured, had not paid duty under this item. They do not sanction duty on the duty-paid plain foil the minute it is printed, and again when it is embossed etc. Once duty paid, always duty paid is an axiom that holds true, but only for one item. A goods duty-paid in one item can undergo manufacture so as to make it enter another item.

Then it is non-duty paid as the new manufacture. I think I have written enough.

24. No duly is due on the foil after printing by M/s. Swastik Packaging as demanded by the Collector. I set aside his order.