Maharashtra Printers and Vs. Commissioner of Central Excise,

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-10-2001

Appellant : Maharashtra Printers and

Respondent : Commissioner of Central Excise,

Judgement :

1. The application is for waiver of deposit of duty of Rs. 3.11 lakhs and penalty of equivalent amount.

2. The duty has been demanded and penalty imposed on the finding that the printed cartons and pouches of paper that the applicant manufactures were not classifiable under heading 48.17 and 4819.12 of the Tariff as claimed, but under headings 4819.90. The contention of the counsel for the applicant is primarily on limitation. The extended period contained in the proviso under sub-section (1) of Section 11A which was invoked in the show cause notice, was not available for the reason that the applicant had described the goods as pouches and cartons of paper in the three classification lists, each of which have been approved by the department.

3. The departmental representative says that the applicant did not disclose to the department that the pouches were used, not to contain stationery as heading 48.17 requires, but contraceptives and the cartons were used to pack ice-cream bars.

4. We are of the view that the claim of limitation is prima facie acceptable. When the goods have been described as pouches and cartons of paper, (which is what they are) it was not unreasonable for the departmental authorities to verify their use, before approving the classification. We therefore waive deposit of the duty demanded and penalty imposed and stay their recovery.