

**Texchem Vs. Commissioner of Central Excise**

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**SooperKanoon Citation :** [sooperkanoon.com/27422](http://sooperkanoon.com/27422)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

**Decided On :** Jan-31-2002

**Reported in :** (2002)(145)ELT646Tri(Mum.)bai

**Judge :** S T Gowri, G Srinivasan

**Appellant :** Texchem

**Respondent :** Commissioner of Central Excise

**Judgement :**

1. Duty of Rs. 4,33,78,244/- has been demanded and penalty of Rs. 4.19 crores are required to be deposited.
2. The applicant obtains various goods mainly textile chemicals classifiable in various headings in Chapters 28, 32, 34, 35, 38 & 39 of the tariff, in drums which bear no markings whatsoever other than serial numbers. It affixes on them its name and address preceded by the word "consignor". It does not indicate the nature of the product. Duty has been demanded on the ground that, by application of the relevant rules and notes in the chapter (for e.g. note 10 to Chapter 28), this activity amounts to labelling which is deemed to be manufacture.
3. Counsel for the applicant relies upon the decision of the Tribunal in Ammonia Supply Co. v. CCE - 2001 (131) E.L.T. 626 in support of the proposition that mere labelling alone will not amount to manufacture.

It is only goods which are repacked from bulk to retail containers and then labelling which are the results of manufacture.

4. The departmental representative contends that the decision goes against the plain and ordinary construction of the relevant chapter notes and requires reconsideration. There appears to be some force in his argument. At this stage however, being bound by the subsisting decision, we waive deposit of the duty and penalty and stay their recovery.

5. On the prayer by the Counsel for the applicant that the issue is recurring, we list this appeal for hearing out of turn on 6th March, 2002.

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