

Copper Rollers Pvt. Ltd. Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-29-1983

Reported in : (1983)LC762DTri(Delhi)

Appellant : Copper Rollers Pvt. Ltd.

Respondent : Collector of Central Excise

Judgement :

2. The appellants manufacture polished copper cylinders which after engraving with the desired design are used for printing of textiles.

There is no dispute that at the time of their clearance from the appellants' factory the subject cylinders are not engraved. The dispute is whether such cylinders are entitled to exemption from central excise duty under entry No. 21 of notification No. 55/75-C.E. which reads as under : - "21. Engraved copper rollers or cylinders for use in textile industry." 3. The appellants argued that the word "or" is disjunctive and it does not mean "and" (AIR 1974 SC 686). Accordingly, they stated that the words "Engraved copper" qualified only rollers and not cylinders. At this, the Department's representative pointed out that the interpretation placed by the appellants on the entry would mean that all types of cylinders used in textile industry were exempt under the entry. He added that the textile industry used cylinders of various types, those made of wood (in calendering machine), of steel (in dyeing machine), of copper (in printing machine) and so on. He maintained that such a wide meaning would be out of context of the entry and that the context required only rollers and cylinders used in printing process by textile industry to be

covered by the entry. The appellants then took the stand that the entry exempted only copper cylinders and that the word "copper" qualified both rollers and cylinders while the word "Engraved" qualified only rollers. The appellants then went on to argue that rollers and cylinders were two distinct products as was clear from the affidavits of textile mills filed by the appellants before the Appellate Collector. These affidavits stated that at the unengraved stage, the goods were known as cylinders. After engraving they were known as rollers. The Department did not file any counter to these affidavits. On the contrary, the impugned Order-in-Appeal admitted that engraved copper rollers and cylinders were two distinct products. The appellants argued further that no word was redundant in any legislation and each word had to be given its proper meaning. If the intention was to give an identical meaning to rollers and cylinders, there was no need to use both the words. Admitting, that in the un-engraved form in which the cylinders were cleared from the appellants' factory they were not usable by textile industry, the appellants stated that in order to give a reasonable meaning to the entry it should be construed to mean that it covered cylinders to be engraved for use in textile industry.

4. The Department's representative relied on the Supreme Court judgment in *Rainbow Steels Ltd. v. Commissioner of Sales Tax, U.P.* (2 SCR 1981 727). In this case, the Supreme Court, while interpreting the entry "old, discarded, unserviceable or obsolete machinery", held that the principle of *noctur a sociis* was applicable in that case and that this principle was explained in Maxwell on the Interpretation of Statutes (12th Edition) at page 289 thus : - "Where two or more words which are susceptible of analogous meaning are coupled together, *noctur a sociis*, they are understood to be used in their cognate sense. They take, as it were, their colour from each other, the meaning of the more general being restricted to a sense analogous to that of the less general." The Department's representative explained that the words "rollers" and "cylinders" in entry 21 of the notification similarly took colour from each other and were susceptible of analogous meaning. Even in common parlance, the two words meant the same thing. The dictionary defined roller as a cylindrical shaped object. By way of giving background to the inclusion of entry 21 in the exemption notification, he stated that this was done on the representation of the Engravers Association. The

engravers were skilled craftsmen operating on job work basis and it was to save them from the burden and formalities of excise duty that entry 21 came to be included in the notification.

5. We have given our earnest consideration to the matter. We find that the appellants' argument that the word "or" is disjunctive is only partially true. Stroud's Judicial Dictionary, 4th Edition, states that "or" is prima facie an alternative word, that it is, however not always disjunctive and that it is sometimes interpretative, or expository, of the former word. The book "Words and Phrases Legally Defined" Volume 4, states, inter alia, on the basis of Australian authorities that "or" is sometimes read as "that is to say". It goes on further to say, "if the general scheme of an Act of Parliament obviously calls for 'and' to be read as 'or' or 'or' as 'and', the court is free to take the very important step of altering the verbiage of that Act". It would not be out of place to repeat here the well-known dictum laid down by our own Supreme Court that grammar is a good guide to meaning but is a bad master to dictate. From all this, we find that there is no hard and fast rule as to the meaning of the word "or" and that this word gets its proper meaning from the particular context in which it has been used. If we take the word "or" used in entry 21 of the notification as disjunctive, as pleaded by the appellants, the said entry gets broken into two distinct parts (1) engraved copper rollers, and (2) cylinders for use in textile industry. By doing so, we run into all sorts of incongruities. The implication then would be that engraved copper rollers need not be for use in textile industry and cylinders for use in textile industry may be any type of cylinders. The appellants themselves, being conscious of this incongruity in the meaning and scope of the entry 21, accepted during the hearing that only cylinders made of copper were covered by the entry. In other words, they accepted that the word "copper" preceding the word "rollers" qualified "cylinders" also. There are two qualifying words in the entry preceding the word "rollers". If one of them qualifies both rollers and cylinders, we fail to understand how, by the same logic, the other word, namely, "engraved" too does not qualify both rollers and cylinders. Un-engraved or plain copper cylinders cannot be used by textile industry. They have first to go to the engraver for etching out the desired design before they can be used by textile industry for printing of fabrics. To get over this difficulty, the appellants would like us to read the latter half of entry 21 as

"cylinders to be engraved for use by textile industry". We see no warrant for adding any words in the entry when the meaning of the entry read as a whole is already clear. There is no doubt in our mind that the word "or" used in this entry is expository and the entry as a whole prescribes three conditions to be fulfilled before rollers or cylinders can be exempted thereunder : - Since the copper cylinders manufactured by the appellants are not engraved and since, in the un-engraved condition in which they are cleared from their factory, they cannot be used by textile industry, we hold that they are not entitled to exemption under entry 21 of notification No. 55/75-C.E.

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