

Commissioner of Customs (Ep) Vs. the Design Point

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jul-18-2003

Judge : J Balasundaram, S T C.

Appellant : Commissioner of Customs (Ep)

Respondent : The Design Point

Judgement :

1. This is an appeal filed by Revenue against the order of the Commissioner (Appeals) holding the impugned goods to be printed books for the purpose of Sr. No. 457 in the DEPB Schedule.

2. Shri A. Shukla, learned S.D.R. appearing for Revenue states that the impugned goods merely consist of designs pasted on different pages and do not have any relative texts nor are they bound. It is his submission that a mere collection of pages cannot be considered to be a printed book. He also refers to the grounds of appeal and reiterates the same.

Further, he states that the ISBN No. is given on request of a publisher on payment of prescribed fees and mere allocation of an ISBN No. is not sufficient to hold that the impugned goods are printed books.

3. Shri K.M. Mondal, learned Consultant for the respondents explains that what are pasted on the pages are not photographs but are printed pictures obtained through scanning of textile prints to a computer and then reproduced by printing on

high quality paper. He draws our attention to Chapter Note 2 of the Chapter 49 of the HSN which explains that the term "printed" also means reproduced by means of a duplicating machine, produced under the control of an automatic data processing machine, embossed, photographed, photocopied, thermocopied or typewritten. As such, he states that the impugned goods have to be treated as printed. As regards inclusion of related text, he states that there is an introduction page which explains that the book contains designs used in textile printing, that it would be helpful to the designers and that printers would be inspired by the (SIC) in the books. It has also been explained therein that the designs contain wonderful colour combinations which can be used on different fabrics viz. Silk, Cotton and Upholstery. It gives No. of pages, the publishers' name, address and price apart from the ISBN No. and contains an index which categorises different designs according to page Nos. He also states that though the author is not mentioned but it has been made clear that the book is published for INTEX Inc., the copyright holders by the publishers who are the respondents in this case. He also refers to para 10 of the decision of the Apex Court in the case of Commissioner of Customs, New Delhi v. Parasrampuriah Synthetics Ltd., - 2001 (133) E.L.T. 9 (S.C.) and submits that the criteria for a product to be called a book as given therein is met by the impugned goods. He further states that the impugned goods are suitable for binding and therefore the fact that they are not bound but are kept in a box cannot be a material fact as the Chapter Note 4(a) under Chapter 49 of the HSN includes such products in the category of books for classification under heading 49.01.

4. After hearing both sides and perusal of case records, we find that the issue in this appeal is whether the impugned goods can be considered as printed books for the purpose of Sr. No. 457 of the DEPB Schedule rather than classification under Chapter 49.01 of the Customs Tariff which is relevant for imported goods. However, the Explanatory Note to HSN as well as the cited case law can be taken as guidance for deciding what would be a printed book even for the DEPB Schedule in the absence of a definition for the same in the said schedule. The Revenue has urged that there is no relative text for the loose sheets and hence the impugned goods cannot be considered as books. We, however, observe that there is some explanatory text at the beginning of the book alongwith an index with

categorization of the pages which can be considered to be adequate relative text considering the very nature of the product which consists of various designs. In the instant case, the pages do not appear to be in much need of elaborate text as the designs in each of them. The impugned goods have been produced by a process which satisfies the criteria of printing and also contain indication regarding the publishers, price, page Nos. ISBN No. etc. The goods are also being sold as books to the buyers abroad where there is a market for the same. We have noted that the coverage under heading 49.01 of the HSN is wider than printed books as it includes other products as well but we are of the view that makes no difference to consider the impugned goods as printed books in the light of the Explanatory Notes to the said Heading. Accordingly, we are of the view that the Commissioner (Appeals) has taken a reasonable decision to classify the impugned goods under Sr. No. 457 of the DEPB Schedule as printed books and that his order does not call for any interference.

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