SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Creative Dyeing and Printing Vs. Commissioner of C. Ex.

Creative Dyeing and Printing Vs. Commissioner of C. Ex.

SooperKanoon Citation : sooperkanoon.com/31764

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-30-2003

Reported in : (2004)(164)ELT41TriDel

Judge : K Usha, N T C.N.B.

Appellant : Creative Dyeing and Printing

Respondent : Commissioner of C. Ex.

Judgement :
1. These appeals are at the instance of the assessee M/s. Creative Dyeing & Printing Mills, its Directors and General Manager. The main issue raised in these appeals is whether adjudicating authority as well as Commissioner (Appeals) were correct in upholding the allegation in the SCN that the appellant M/s. Creative Dyeing & Printing Mills Pvt.

Ltd. have failed to include the Design Development charges in the assessable value of the fabrics produced/processed on job work basis.

2. It is the contention of the appellant that designs were developed in the form of swatches for approval of a particular exporter for ready-made garments. These swatches were then sent to the buyer for his approval. In case of non-approval of such swatches, no processing order nor grey fabrics were received by the appellant. Only a very small number of such designs were used for printing and swatching whereas the demand has been raised for the entire amount received as

charges for developing the design. Graphics and sketching of print designs is not an excisable activity. When fabric printing orders are received in the case of approved designs, the appellants invariably received debit notes from the exporter as a routine practice prevailing in the industry. It is submitted that the value of approved design ordered for processing has to be adjusted at the time of payment for processing charges after completing processing job. The buyers would raise debit note on the said value against the processing bill. The appellants submit that duty is payable on the value of design charges only when they were used in printing of fabrics. The certificate issued by the Chartered Accountant clearly showed that the appellant had raised the bills under the Head Design and Development to the tune of Rs. 43,54,254/- and against this billing, they have received debit note worth Rs. 8,88,580/- relating to approved designs for which regular processing/printing orders were executed. It is also certified that M/s. Narain Enterprises raised the bills under the Design and Development to the tune of Rs. 40,28,330/- and against this billing, the appellant received debit note worth Rs. 8,49,910/- in respect of approved designs for which regular processing/printing orders were executed. The appellants submitted before us that these facts can be verified with reference to debit/credit notes, party-wise ledger and copies of invoices. We found that both the adjudicating authority and the appellate authority had not examined the appellants case in the light of the above submissions.

3. We, therefore, under our order dt. 10-2-03, directed the original authority to examine the claim put forward by the appellant. The appellant thereupon produced the photocopies of debit notes and invoices of the relevant period and party-wise ledger. After examining these documents, it was reported to us on behalf of the Revenue that the assessee had produced 81 debit/credit notes issued in their name along with photocopy of ledger account of parties showing credit entries for the amount of Rs. 8,21,280/-. They could not produce debit notes amounting to Rs. 67,300/- as they were not available/traceable but they furnished a list of such debit notes which could be verified with the ledger entries. So also the party produced debit/credit notes in respect of Design Development charges for an amount of Rs. 6,89,110/- issued in favour of M/s. Narain Enterprises Pvt. Ltd. and list of missing debit/credit notes for the amount of Rs. 1,60,800/- which could be verified with ledger entries.

4. Since the party could produce major portion of the debit/credit notes and they have given a list of missing debit/credit notes which could be reconciled with the ledger entries, we hold that the contention raised by the assessee that wherever the developed designs ultimately ended in processing/printing order, they have included the charges for the designs in the assessable value of the fabrics processed by them on job work basis. The differential duty demanded in the SCN is, therefore, not sustainable in law.

5. Since no other contentions are raised before us, we set aside the order impugned and allow the appeals.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com