

Pick Pack Flavours Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-03-2003

Reported in : (2004)(91)ECC65

Judge : S Kang, M T K.D.

Appellant : Pick Pack Flavours

Respondent : Cce

Judgement :

1. The instant appeals relate to the demands of Additional Duty of Excise (in lieu of Sales Tax) (A.E.D. for short) in respect of chewing tobacco cleared by the appellants during the period June 1997 to October 1998 and for March 1998. The appellants plead that they were not liable to the said duty on account of exemption from A.E.D.introduced with effect from 7.5.97 by Notification No. 28/97-CE dated 7.5.95.

2. We have perused the contents of the said notification. The said notification provides full exemption from A.E.D. to chewing tobacco in following terms "Chewing tobacco and preparations containing chewing tobacco, other than those bearing a brand name, which are exempt from the whole of duty of excise vide Notification No. 16/97-Central Excise dated the 1st April, 1997." The impugned demands in this case relate to that quantity of unbranded chewing tobacco which is not fully exempt from basic excise duty under Notification No, 16/97-CE dated 1.4.97. Under Notification No. 16/97-CE first clearances upto Rs. 30 lakhs are fully

exempted and duty at the prescribed rates (3% or 5% as the case may be) is payable on clearance exceeding the level of Rs. 30 lakhs. It is an admitted fact that the demand relates to the quantities which are subjected to duty in terms of the said notification. The appellants, however, plead that the exemption from basic duty as provided under Notification No. 16/97-CE, should be read to cover A.E.D. also. WE are unable to agree with the appellants. It is a well settled law that unless the exemption notification specifically refers to the other duties of excise, exemption has to be confined only to basic duty. Reliance placed by the learned Commissioner (Appeals) on the Supreme Court judgment in the case of UOI v. Modi Rubber Ltd. 1986 (10) ECC 73 (SC) : 1986 (25) ELT 849 (SO is quite correct and the impugned order does not call for any interference. Accordingly, we reject the appeal.

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