Commissioner of Customs and Vs. Proctor and Gamble Home Products

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-19-2003

Reported in : (2004)(167)ELT173TriDel

Judge : S Kang, a T V.K.

Appellant : Commissioner of Customs and

Respondent : Proctor and Gamble Home Products

Judgement :

1. This is an appeal by the Revenue against Order-in-Original No. 13/02 dated 03.5.2002, by which the Commissioner has not confirmed the demand of duty of Excise against M/s. Proctor & Gamble Home Products.

2. We heard Shri Vikas Kumar, learned S.D.R. for the Revenue and Sh.

V.S. Nankarni, learned Advocate for the respondent. The respondents had imported pringles original and pringles sour cream and onion variants of potato chips/pdotato crisps from the United States of America. They had affixed stickers containing the information regarding importer's name and address, MRP, date of packaging, monogram, net weight and the date before which these are used in compliance with the provisions of package Commodity Rule, 1977. The Revenue wanted to classify the products under sub-heading 2001.10 of the First Schedule to the Central Excise Tariff Act. The Commissioner, under the impugned order, has classified the impugned product under sub-heading 1905.90 of the Tariff and dropped the demand of duty. Without going into the aspect of classification of the impugned product, which is left open to be decided by the Revenue in an appropriate case, we observe that Note 3 to Chapter 19/20 is not attracted in view of the decision of the Tribunal in the case of C.C.E. v. Panchsheel Soap Factory, 2002-Taxindiaonline-22-CESTAT-DEL wherein it has been held by the Tribunal that "simply putting a sticker, in our view, will neither amount to labelling or re-labelling, the processes which have been deemed to be a process of manufacture by Note 6". The Tribunal has also observed in the said decision that the Central Board of Excise & Customs has taken the same view in respect of imported medicines which were sold after pasting sticker on the cartons of the imported items in view of the requirement of the Drugs and Cosmetics Act without altering any information originally contained in the packet. The learned Advocate for the respondents has mentioned that the appeal filed by the Revenue against the decision of the Panchsheel Shop Factory (supra), has been dismissed by the Supreme Court on 13.12.2002 as reported in 2003 (156) E.L.T. A382. The appeal, filed by the Revenue, is thus rejected on this ground alone as the processes undertaken by the respondents do not amount to manufacture.