Syndet India Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Dec-09-2003

Reported in : (2004)(166)ELT349Tri(Mum.)bai

Judge : S T Gowri, K Kumar

Appellant : Syndet India

Respondent : Commissioner of Central Excise

Judgement :
1. The appellant inter alia obtained unpacked bars of detergent manufactured by another person, packed the detergent bars by placing them inside the packing of detergent powder that it manufactured and cleared them after paying duty on the packed detergent. It took credit under 57A of the duty paid on the unpacked bars that it received utilising it for payment of duty on the packed bars. The notice issued to the appellant proposed recovery of credit that it took on the ground that the packing that it did of the detergent bar was not manufacture.

This appeal is against the order of the Commissioner (Appeals) confirming the finding of the Asst. Commissioner that such activity not being manufacture appellant would not have taken credit. 2. We have heard both sides. In its decision in Standard Surfactants Lid. CCE - 2000 (115) E.L.T. 763 a bench of the Tribunal in regard to an identical issue set aside the demand for credit taken on its view expressed in the following words.

"There are no two definitions in the Central Excise law for the purpose of levying duty as manufacture and for granting input credit. If at all, the position is more liberal with regard to input credit, as it allows credit in respect of any item in or in relation to the manufacture. We, therefore, hold the finding on this score to be wholly illegal and set aside the duty demand on this score also." 3. In the decision of Singh Scrap Processors Ltd. CCE - 2002 (143) E.L.T. 619 and CCE, Mumbai Piramal Spinning and Weaving Mills Ltd. - 2002 (146) E.L.T. 153 (Tri.) = 2002 (49) RLT 749 the two different bench of the Tribunal have held that even if duty were not payable on the finished goods (there being no manufacture), the utilisation of the credit taken towards payment of such duty having taken care the question of further recovery would not arise.

4. In the light of these decisions, we are not able to uphold the order impugned in the appeal.