S.R. Tissues P. Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-19-2004

Judge : A T V.K., P Chacko

Appellant : S.R. Tissues P. Ltd.

Respondent : Cce

Judgement :

1. The issue involved in this appeal is whether slitting/cutting of jumbo rolls of tissue paper into smaller sizes for use as facial tissue, toilet tissues and napkins amount to manufacturer.

2. We heard Sh. M.P. Dev Nath, learned Advocate for the appellants, and Sh. V. Valte, learned SDR.for the Revenue. The learned Advocate submitted that the issue involved in the present appeal has been decided by the Appellate Tribunal in their own case as reported in 2001 (136) 367 (T) that the Commissioner (Appeals), while rejecting their appeal has relied upon the Order-in-Original No. 21/99 dated 22.11.1999 passed by the Commissioner of Central Excise ; that the said order has already been set aside by the Tribunal and, therefore, the reliance of the Commissioner (Appeals) on the said Order-in-Original is wrong. On the other hand, the learned SDR submitted that the Department has filed a SLP against the Tribunal's decision and the same has been admitted by the Hon'ble Supreme Court. The learned Advocate countered by submitting that no stay has been granted by the Hon'ble Supreme Court.

3. We have considered the submissions of both the sides. This Tribunal in the case of the appellant themselves, i.e. S.R. Tissues P. Ltd. Vs.

CCE, New Delhi, 2001 (136) ELT 367 (T) has held that their activity of slitting/cutting tissue paper (in Jumbo Rolls) to smaller size did not amount to manufacture as defined under Section 2(f) of the Central Excise Act. The Revenue has not brought on record any material to show that the Hon'ble Supreme Court has stayed the operation of the said order. We, Therefore, following the said decision, set aside the impugned order and allow the appeal.