Commissioner of Central Excise Vs. Sohum Industries Pvt. Ltd.

Commissioner of Central Excise Vs. Sohum Industries Pvt. Ltd.

SooperKanoon Citation : sooperkanoon.com/34629

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-18-2004

Reported in : (2006)(203)ELT493Tri(Mum.)bai

Judge : J Balasundaram, A M Moheb

Appellant : Commissioner of Central Excise

Respondent : Sohum Industries Pvt. Ltd.

Judgement :

1. The respondents herein were importing Jumbo Rolls of 43CM size and engaged in cutting and slitting them into smaller sizes and rolling them for making them suitable for use in fax machines.

2. The Assistant Commissioner of Central Excise held that the above process was a process of manufacture and the duty was chargeable under CET Sub- heading No. 4823.19. the commissioner (Appeals) set aside the adjudication order holding that cutting/slitting of paper from jumbo rolls does not amount to manufacture; hence this appeal.

3. We have heard Ld. SDR and perused the records, none appears for the respondent in spite of notice. We find that the issue in dispute has been settled by the Tribunal's order in the case of Kores India ltd.

Vs. Commissioner of Central Excise, [2003(152) ELT 395 (Tri. Chennai)] it has been held that conversion of jumbo reels of Typewriter/Telex Ribbon into spool form as required by customers to suit particular model and make of the machine amounts to manufacture as a new and distinct product emerges. As a result of such process The Tribunal has considered the decision of the Hon'ble Madras high Court in the case of computer Graphics private Ltd. Vs. union of India [1991 (52) ELT 491] relied upon by the commissioner (Appeals) in the present impugned order and has held that the high Court decision was rendered in the context of the operation of the petitioners company being limited to cutting of paper into suitable size In para 37-38 of the Tribunal's order, the issue of duty liability on Typewriter/Telex ribbons was considered and it was held that this was a new commodity distinct from Jumbo Reels and the commodity was different from that dealt with by the Hon'ble Madras High Court in the case of computer Graphic Pvt. Ltd. The tribunal upheld the duty demand on typewriter/Telex Ribbon printing spools.

4. The ratio of the above decision is applicable on all for to the facts of the present case and we also note that the adjudicating authority has recorded clear finding that after the process carried out by the appellants herein the goods become 'Thermal Paper Rolls for Fax Machines'. In other words he has clearly found that as a result of the process carried on by the appellants, the goods were known as a different commercial commodity thus satisfying the test of manufacture.

5. In the light of the above discussion and following the ratio of the Tribunal's order in Kores India Ltd. cited supra, we set aside the impugned order and allow the appeal.