Commissioner of Central Excise Vs. Kraftech Products Inc.

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SooperKanoon Citation : sooperkanoon.com/35198

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-10-2004

Reported in : (2005)(179)ELT43Tri(Mum.)bai

Judge : J Balasundaram, S T C.

Appellant : Commissioner of Central Excise

Respondent : Kraftech Products Inc.

Judgement :

1. Heard both sides. The respondents manufacture "Godrej Permanent Powder Hair Dye" and "Godrej Kali Mehendi". These products are packed in small packages containing 3 units each but the combined weight is less than 10 gms. The dispute is whether such packages are exempted from declaring the M.R.P under Rule 34 of the Standards of weights and Measures (Packaged Commodity) Rules, 1977 and consequently from the operation of Section 4A of the Central Excise Act, 1944. It is the claim of the respondents that they are exempt from the requirement of declaring the M.R.P. under the said rules, though they have voluntarily declared such price. It is also their claim that consequently they are entitled for assessment under Section 4 of the Central Excise Act, 1944 in accordance with which they have paid the duty. The Commissioner (Appeals) has accepted the claim of the respondents.

2. The main ground of the Departmental appeal is that the exemption under the said Rule 34 does not apply to a case where several units are packed together.

We have perused the relevant provisions under the said Rule 34. The exemption under the same clearly applies to any package containing a commodity if the net weight of the commodity is 20 gms or less. The language of the rule does not warrant the interpretation sought to be placed by the department that since the package contains 3 units, the exemption under the rule is not available. We are of the view that since the combined weight of the 3 units of the impugned goods is less than the prescribed weight of 20 gms, the Commissioner (Appeals) has rightly concluded in his impugned order that the respondents are eligible for exemption under the said Rule 34 and consequently they are entitled to assessment under Section 4 of the Central Excise Act, 1944 instead of under Section 4A of the said act.