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Ccex Vs. Caprihans India Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Nov-02-2004

Reported in : (2005)(181)ELT77Tri(Mum.)bai

Judge : A Wadhwa, A T V.K.

Appellant : Ccex

Respondent : Caprihans India Ltd.

Judgement :

1. The issue involved in this appeal filed by Revenue is whether the cost of printing is to be included in the assessable value of PVC film/sheeting.

2. Shri A.K. Saxena, learned JDR, submitted that the respondent M/s Caprihans India Ltd. manufacture PVC film/sheeting, which is cleared by them on payment of Central Excise duty; that thereafter the printing is undertaken but PVC film and the cost of such film is not included in the assessable value; that the Dy. Commissioner under Order-in-Original dated -27/11/99 has demanded the duty on the cost of printing on the ground that main factory gate is the place removal and sale of excisable goods and also the point at which the printed PVC sheets are to evaluated; that, however, the Commissioner (Appeal) has allowed the appeal filed by the respondent holding that printing on duty paid plain plastic film does not amount to manufacture relying upon the decision of the Supreme Court in the case J.G. Glass Industries Ltd. - as reported in 1998(97)ELT 5(SC).

3. The learned JDR, further, submitted that the respondent are clearing PVC sheets to their Printing Division located in the same premises and therefore the ratio of the decision in the case of JG Glass is not applicable, as in that case the printing was done in the separate premises. He also relied upon the decision of the Supreme Court in the case of Sidhartha Tubes Ltd. v. Collector of C.Ex as reported in 2000(115)ELT 32(SC), wherein the Supreme Court has held that the cost of galvanization is to be included in the assessable value of the steel pipes and tubes though the process of galvanization does not amount to manufacture as in adds to the intrinsic value of the product to make the full commercial value.

4. Countering the argument, Shri Rohan Shah, learned Advocate submitted that the respondents are having two separate PVC film in their factory, they clear the same to their another factory where the process of printing is carried out; that as such the cost of printing, which is not done in the same factory of manufacturer, is not to be included in the assessable value as decided by the Supreme Court in the case of J.G. Glass; that printing on plastic film does not amount to manufacture by itself. Shri Shah also submitted that the Commissioner (Appeals) in the impugned order has also held that if printing is held to be manufactured process, the correct classification would be under heading 49.01 of Schedule of the Central Excise Tariff Act in which the product is fully exempted from duty; that this finding of the impugned order has not been challengeable by the Revenue in appeal.

5. We have considered the submissions of both the sides. The contention of the respondent that the process of PVC film is being undertaken in their separate factory, which is across the road, has not been controverted by the Revenue by bringing any material on record to the effect that the process of printing has been done in the same premises where the manufacturing of PVC film has been carried out. The process of manufacturing of PVC film is complete the moment PVC film comes into existence. It is not the case of the Revenue that the PVC film is not complete without the process of printing and a new product comes into existence after the printing is carried out on PVC film. Hence, it is clear that Central Excise duty cannot be charged again after the printing is carried out on PVC film. Hence, it is clear that Central Excise duty cannot be charged again after printing as has been held in the case of J.G. Glass supra. In view of this, we do not find any merit

in the appeal filed by Revenue and reject the same.

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