Union of India Vs. Rollatainers Ltd.

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Court : Karnataka

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Reported in : 1991(32)ECC321; 1991LC36(Karnataka); 1991(55)ELT317(Kar); ILR1991KAR555; 1991(1)KarLJ224

Judge : Bisheshwar Prasad Singh and ;K. Jagannatha Shetty, JJ.

Acts : Central Excise Rules, 1944 - Rules 8, 10 and 173J

Appeal No. : Writ Appeal No. 1795 of 1984

Appellant : Union of India

Respondent : Rollatainers Ltd.

Advocate for Def. : Shri S.G. Sundaraswamy, Senior Adv.

Advocate for Pet/Ap. : Shri Ashok Harnahalli, Central Govt. Standing Counsel

Judgement :

1. The Union of India, Assistant Collector of Central Excise, and the Superintendent of Central Excise, Bangalore, have preferred this appeal against the judgment and order of a learned single Judge of this Court (Puttaswamy, J), dated 11th of June, 1984 whereby the learned single Judge quashed the order dated 15-9-1980 calling upon the respondent herein to file a classification list in respect of printed cartons manufactured by it under Tariff Item No. 68 for approval,

and the two show cause notices, dated 24-9-1980, Annexures G and H relating to two period calling upon the respondent to show cause as to why it should not be required to pay a sum of Rs. 1,70,638.30 and Rs. 4,13,074.01 being the excise duty recoverable from the respondent under Rule 10 read with Rule 173J of the Central Excise Rules, 1944. The learned single Judge has also issued a writ in the nature of mandamus directing the appellants to refund the excise duty collected from the respondent on the printed cartons for the period during which the exemption was in force on such manufactured article.

2. The question involved in the instant writ appeal is whether the printed cartons manufactured by the respondent-Company are products of printing industry and as such exempted from the payment of excise duty under Notification No. 55/75, dated 1-3-1995 as amended from time to time. There is no dispute that if the product of the respondent - Company is found to be a product of the printing industry, it is entitled to the benefit of the exemption from payment of excise duty till 28th of February 1983.

3. The relevant facts may be briefly stated thus :

The respondent-Company manufactures printed cartons at its factory at Makali, Nelamangala, Bangalore District. It manufactures such cartons for important and reputed organisations as per their specifications and requirements. The respondent Company has specialised in the branch of the printing industry connected with the manufacture of printed cartons. According to the respondent-Company, printed cartons are known and understood in the trade as products of the printing industry and this is borne out by several extracts from various references and text books on the printing industry and printing techniques for diversified products of the printing industry. According to the respondent-Company in the trade in general the entire manufacture of a printed carton from the stage of the purchase or receipt by a manufacturer of the appropriate quality of paper board to the ultimate finished product offered for sale i.e., printed cartons, is carried out by a manufacturer on printed presses and other supplementary machinery for cutting and creasing, folding and finishing the printed cartons in accordance with the specifications of its customers. The final product which comes out in the shape of a printed carton undergoes various stages in the process of manufacture. Firstly, the respondent-Company exerts its skill and precision in designing the art work to be printed on the printed carton. Thereafter, the plate or the block is made, which involves the preparation of copper or aluminium plate depending on the printing method employed. The paper board on which the art work is to be printed is then handed in the printing room to attain the right degree of moisture and stretch so that the colours intended to be printed are correctly transferred and register themselves at the required place on the Board. Thereafter, the art work is transferred to the prepared paper board. In the printing operation, printing defects have to be eliminated and some times changes are made according to the directions of the customer. This process to involves several trial runs till the desired result is obtained. After the printing, process to improve the appearance of the printed cartons in accordance with the requirement of the customers, varnishing, embossing, bronzing or foil stamping operations are undertaken. The cutting and creasing operations follows to convert the printed sheets into shape, and sizes required by customers. In the final stage, if the customer so requires, the printed cartons are subjected to gluing operation. If there is no such specific direction by the customers, the product is supplied unglued in a flat punched form. According to the respondent-Company the dominant activity in the manufacture of a printed carton is the printing activity and the cutting, creasing operation and the gluing if so required is only supplementary. In the course of time, the printed carton has become a medium of advertising the products. The printed carton enables the manufacturer to enhance the sale value or market appeal of their goods. The art work is chosen so that the brand name and trade mark of the manufacturer is highlighted. The appearance and the usual impact of the printing on the printed carton are of supreme importance to both the manufacturer of the product to be sold in the printed carton and to the printer, and the same therefore occupies the major time of the printer in the manufacturer of the printed carton. It has therefore been contended by the respondent-Company that printed cartons are known and understood in the trade as products of the printing industry. Since that is how printed cartons are understood in common parlance, they earned the benefit of exemption under the notification in question.

4. It is not in dispute that by Notification No. 55/75, dated 1st March, 1975 certain specified goods falling under Item 68 of the 1st Schedule to the Act were exempted from payment of the whole of the duty of excise leviable thereon under Item No. 68. The notification was amended by Notification No. 122/75, dated 5th of May 1975, which added additional goods which were thereby exempted in the like manner. Amongst the goods specified were 'All products of the printing industry not being newspaper and printed periodicals.' It appears there were subsequent amendments to the notification and even newspapers and printed periodicals were subsequently exempted from payment of excise duty. But in the instant case, the subsequent amendments do not appear to be relevant because the case of the respondent-Company is that printed cartons are the product of the printing industry. In the case of M/s. Allibhoy Sharafally and Company, the Central Government in its revisional powers under Section 36 of the Act held by its order dated 5th December, 1977 that printed carton manufactured by the aforesaid Company were products of the printing industry and therefore exempt from the payment of excise duty in view of the notification issued under Rule 8 of the Rules.

5. The respondent-Company also filed a classification list dated 26th October, 1979 wherein it claimed the benefit of exemption under the same notification in respect of the printed cartons manufactured by it. The classification list was approved and accordingly the respondent-Company manufactured and cleared printed cartons without payment of excise duty. Another matter came up for consideration before the Union of India, in the case of M/s. Vijay Flexible Containers (Private) Limited, and on this occasion the Union of India held that the printed cartons were not a product of the printing industry but a product of the packaging industry and therefore not entitled to the exemption from payment of excise duty under the exempting notification.

6. Appellant No. 3 by his letter dated 5th September, 1980 informed the Company's factory at Bangalore that on reconsideration of the issue it was found that printed cartons were not eligible for exemption under the notification as they were a product of the packaging industry and therefore the Company was required to file a fresh classification list in respect of printed cartons and to clear the same in future on payment of excise duty. The letter dated 15th September, 1980 is

Annexure-E to the writ petition. With a view to continue its clearance the respondent-Company filed a fresh classification list dated 1st November, 1980 which was approved and thereafter the respondent-Company has been paying the excise duty under protest. Two show cause notices Annexure-G and H were issued by appellant No. 32 calling upon the respondent-Company to show cause as to why the amount of Rs. 4,13,074.01 allegedly not levied for the period March, 1980 to August, 1980 and a sum of Rs. 1,70,638.30 for the period November, 1979 to February 1980 be not recovered from the respondent-Company under Rule 10 of the Central Excise Rules. Since the respondent-Company had erroneously claimed exemption in respect of printed cartons, which were not the product of the printing industry. The respondent-Company challenged the aforesaid communication, Annexure-E, and the show cause notices Annexure-G and H in the writ petition filed by it before this Court contending that printed cartons were product of the printing industry and as such entitled to the exemption under a notification dated 1st March 1975 read with Notification dated 5th May 1975 issued under Rule 8 of the Central Excise Rules. The respondent-Company also claimed refund of the amount illegally collected from it.

7. The appellants herein, who were the respondents in the writ petition, contested the claim of the respondent-Company that printed cartons were the product of the printing industry and supported the impugned order and the show cause notices issued by respondent-3 on the ground that printed cartons not being a product of the printing industry and being a product of the packaging industry were not entitled to the benefit of exemption under the notification issued under Rule 8 of the Rules.

8. The learned single Judge, who heard the writ petition, allowed the same by his judgment and order dated 11th of June 1984. He held, on a review of the case law on the subject, that printed cartons must be understood as it is in common parlance and not in any technical sense. He thereafter referred to the literature produced before this Court including the treatises and articles, which according to him established the claim of the respondent-Company that printed cartons have to be appropriately treated as products of the printing industry and not as products of packaging industry. The printed cartons underwent the same processes which

were employed for the printing of books, periodicals and other journals and there was hardly any ground to hold that printed cartons ceased to be the product of printing industry only by reason of its end or ultimate use. According to the learned Judge the end use of the article was totally irrelevant in the context of the entry found in the exemption notification or the tariff item. He approved the view taken by the Central Government in Allibhoy Sharufally and Company [1978 (2) ELT (J 145)] and held that there was hardly any ground to dissent from the same as was done in Vijay Flexible Container Limited, Bombay (FB) [1980 (6) ELT 646 (G.O.I.)]. In this view of the matter, he allowed the writ petition and quashed the order Annexure - E and the show cause notices, Annexure-G and H and further directed refund of the excise duty collected from the respondent on the printed cartons for the period for which the exemption was in force.

9. Aggrieved by the judgment and order of the learned single Judge, this appeal has been preferred.

10. Counsel for the appellants as well as the respondent referred to various decisions of the Supreme Court and other Courts in support of their contention that in giving meaning to words in a taxing statute, the acceptation of a particular word by the trade and its popular meaning should commend itself to the authority. There is no dispute about the settled legal position in this regard. It is well settled that in interpreting the meaning of words in a taxing statute, the acceptation of particular meaning should commend itself to the authority. It should not be construed in any technical sense, but as understood in common parlance, the popular meaning attached to it by those dealing with them, that is to say in their commercial sense (See. AIR 1977 SC 597 - Dunlop India Ltd. v. Union of India, : [1962]1SCR279 Ramavatar Budhaiprasad v. Assistant Sales Tax Officer, : [1967]2SCR720 Commissioner of Sales Tax, Madhya Pradesh v. Jaswant Singh Charan Singh, : 1973ECR9(SC) South Bihar Sugar Mills Ltd. v. Union of India).

11. The learned single Judge has placed great reliance upon the articles and treatises places before him to support the contention that in ordinary parlance printed cartons are considered to be the product of the printing industry. He has quoted the extracts from the several articles and treatises in his judgment and it is

not necessary for us to reproduce the same in this judgment. However, those articles do indicate that there has been considerable progress in the printing industry and that the printing industry has entered fields which were not the conventional fields of the printing industry. We have carefully considered the views of the various foreign authors to which reference has been made in the judgment of the learned single Judge. It is said that the products of the printing industry are many and diverse, and they include posters, banknotes, cartons, plastic containers and many other forms of packaging. It will appear from 'the Encyclopedia of How IT's MADE' edited by Donald Clarke that even plastic containers apart from cartons are the products of the printing industry. Similarly, Victor Strouses in his treatise 'The Printing Industry' has observed that the number of printed products is legion and hence it is absolutely impossible to enumerate them all. He has referred to package printing and has described as belonging to the class of printed products, which is completely paid for by the final customer. He has observed that boxes, tops, labels, neat sealed plastics, lithographed metal cans, paper folding boxes and many similar items belong in this group of package printing which has experienced an unprecedented growth in recent times. Similarly, in 'Printing Office Procedure' published by the British Industries federation, it has been observed that although the typical printer handles a wide variety of work there is trend toward specialisation. Some firms concentrate on books, and others on periodicals, printed cartons and stationery, while some undertake services to the trade such as setting type for other printers to use. It is also stated that the manufacturers of printed cartons in Britain are members of the British Printing Industries Federation.

12. It cannot be disputed that today one can print on almost anything, even on glass, metal or synthetic base. In the past printing activity was confined to printing of books, literature, newspapers, etc. It was confined to paper, card-board and cloth. Scientific advancement has now made it possible to print anything not only on paper and cloth but also on metal, plastic, polythene etc. In our view, the treatises and articles produced by the respondent-Company only establish this fact that the printing industry today covers a much wider field of activity than it did in the past. The question still remains whether everything on which some printing work has been done becomes a product of the printing industry.

13. A carton is a product of the packaging industry, and there can be no dispute about it. The question then is, if something is printed on such carton, does it become a product of the printing industry Does it cease to be any less a carton if something is printed on it, and to a common man in the trade, does it make a difference whether a carton has or has not anything printed on it In our view, it would be an extreme proposition to hold that all products on which some printing is done is a product of the printing industry. In that event, printed cloth would be a product of the printing industry and not of the textile industry. A metal can with printed material on it will similarly be a product of the printing industry and not the packaging industry. The same can be said of card-board packet and even wooden boxes over which some printing is done to identify the goods or its manufacturer. In our view, the mere fact that something is printed on a product by itself does not make it a product of the printing industry. A carton is a carton and has only one use, namely, of packing a product to be sold in the market. The mere fact that something is printed on it does not change its essential nature or use. The learned Judge has observed that the end use of a product is immaterial. In the case of a carton the question does not arise, because it has only one use, and therefore any distinction between its intermediate use and end use is unwarranted. In our view, the printed cartons are designed at times to make the product attractive for the purchaser, and at times to identify the goods and highlight its qualities, and at times to identify the manufacturer of the goods. All the same, the carton remains a carton and is used for the purpose of packaging. It is not always safe to rely on illustrations, but we may take an extreme illustration to support our view. It is not disputed that the ordinary car we use is a motor vehicle. To make it attractive as also for its protection the vehicle is painted, and this is usually done at the finishing stage. Can it be said that the car by reason of such painting ceases to be a product of the motor vehicle industry and becomes a product of the painting industry To our mind the answer is obvious.

14. Learned Counsel for the respondent laid much emphasis on the fact that at times the cost involved in printing a carton may be more than the price of the paper or other material used for making the carton. Assuming it to be so, the carton yet does not cease to be a carton merely because much has been spent on making the carton attractive. There is consensus of judicial opinion that the cost

factor is not determinative. In ordinary parlance, even such a carton is a product of the packaging industry. In the instant case, we are dealing, with a manufacturer, who prints on paper and card board, but there may be other manufacturers, who print on metal and wood. If we accept the submission of the Counsel for the respondent, then all those items on which some printing is done must be said to be products of the printing industry. Having regard to the present day realities, all cartons in that event, must be classified as products of the printing industry.

15. Referring to the facts of this case, learned Counsel for the respondent submitted that the making of a carton involves various processes. The art work is selected, thereafter the paper on which it has to be printed is also selected and prepared. The paper is cut into various shapes and then is subjected to a process of creasing. Lastly, if so required, gluing is done and definite shape given to the printed material, which is known as the carton. A few samples were produced before us and the samples discloses that on the request of the customers sometimes a special type of paper is also provided in the cartons by way of inner lining which protects the product from moisture and prevents its leakage. Obviously such lining is provided by the respondent of make the carton leak proof and moisture proof. The fact that the factory of the respondent not merely prints but also cuts the paper into shapes and provides the creasing, gluing and inner lining, to our mind does not necessarily lead to the conclusion that the final product, namely, the printed carton is a product of the printing industry. It may be that the factory of the respondent is well-equipped to render other service, apart from printing on paper. A particular press may be well equipped to provide services other than what is normally attributable to the printing industry. The finished product which such a printing press produces need not necessarily be a product of the printing industry. On the other hand, in other printing establishments which undertake printing work, the other facilities may not be available, and therefore the printed material has to be subjected to other processes in some other establishment for converting them into cartons. In such event, the cartons so produced must be classified as products of packaging industry even though they are printed cartons. The classification of manufactured goods cannot be dependent merely upon their place or production. The product wherever produced must be classified having regard to what it means and how it is understood in

common parlance. The guiding factor is not where it is produced, but what is produced [See : 1989(39)ELT175(SC)]. There appears to be no principle on which a distinction can be drawn between an ordinary carton and a printed carton, and to hold that an ordinary carton is a product of a packaging industry, while printed carton is a product of a printing industry, if it emerges in its final shape from a printing press. At best it can be said that with technological advancement, it has become possible to have composite industries which can provide a variety of services, not necessarily confined to a single industry as conventionally understood, and which may produce a variety of manufactured items. In such cases the products have to be classified having regard their purpose and as they are understood in ordinary parlance. So viewed, a paper carton, whether printed or not must be classified as a product of the packaging industry, and not a product of the paper industry or printing industry. A carton is used for packing foods whether it is made of printed paper or not, and therefore the printing of cartons does not add to its essential function as a container. Mere Printing does not make a cotton. An ordinary man in the trade has no use for a printed paper, unless it can be given shape as a container in which he can pack his products. What makes it a carton is its capacity to contain which is its essential characteristic, and not the printing work on it, which is merely incidental. In our view, the fact that sometimes more money may be spent on printing than other things, will make no difference. We may usefully quote the observations of the Supreme Court in Atul Glass Industries Ltd., & Others v. Collector of Central Excise & Others : 1986(25)ELT473(SC) :

'8. The test commonly applied to such cases is : How is the product identified by the class or section of people dealing with or using the product That is a test which is attracted whenever the statute does not contain any definition. Porritts and Spencer (Asia) Ltd. v. State of Haryana : 1983(13)ELT1607(SC) . It is generally by its functional character that a product is so identified. In Commissioner of Sales Tax U.P. v. Macneill & Barry Ltd., Kanpur : 1986(23)ELT5(SC) , this court expressed the view that ammonia paper and ferro paper, used for obtaining prints and sketches of site plans could not be described as paper as that word was used in common parlance. On the same basis the Orissa High Court held in State of Orissa v. Gestetner Duplicators (P.) Ltd. - (1974) 33 STC 333 that stencil paper could not be classified as paper for the purposes of the Orissa Sales Tax Act. It is a matter of common experience that the identity of an article is associated with its primary function. It is only logical that it should be so. When a consumer buys an article, he buys it because it performs a specific function for him. There is a mental association in the mind of the consumer between the article and the need it supplies in his life. It is the functional character of the article which identifies it in his mind. In the case of a glass mirror, the consumer recalls primarily the reflective function of the article more than anything else. It is a mirror, an article which reflects images. It is referred to as a glass mirror only because the word glass is descriptive of the mirror in that glass has been used as a medium for manufacturing the mirror. The basic or fundamental character of the article lies in its being a mirror...'

16. We shall now refer to the reported decisions relied upon by the parties in support of their respective cases. As we have observed earlier, the Government of India in exercise of its revisional jurisdiction had earlier decided that printed cartons must be classified as a product of the printing industry. But in a later decision, it reviewed its earlier decision and held that it was a product of the packaging industry. In Allibhoy Sharufally and Company [1978 (2) ELT (J-145)], it was held that in the manufacture of printed cartons, printing is the dominant activity and in the total cost also the cost an account of printing is in the range of 70% to 90% depending on the type of printing. Considering these circumstances, it was held that printed cartons are more appropriately to be treated as the products of the printing industry and eligible for exemption under the relevant notification. The decision of the Government of India does not give any further reasons. It may be noticed that the Government of India proceeded on the basis that cost on account of printing is in the range 70% to 90% depending on the type of printing. It is difficult to say that in every case the cost on account of printing may be so high, for it depends upon the extent of printing work that is involved. In subsequent decisions to which we shall refer hereinafter this factor has not been considered to be determinative of the issue.

In the case of M/s. Vijay Flexible Containers Ltd., Bombay [1980 (6) ELT 646] a larger Bench of three members did not approve the view taken by the Government of India in Allibhoy Sharufally's case. The order of the Government of India is a detailed reasoned order. It observed that in the manufacture of printed paper board was marketed at that stage without being subjected to any further process of manufacture, it could perhaps be treated as the product of the printing industry, since it was not a carton at that stage. However, if such board was further processed i.e., cut/slitted/creased, etc., it became carton though supplied in collapsed condition for reasons of easy transport. The machinery required for making packages may comprise not only a printing press but also separate and additional machines for cutting, slitting and creasing the board for making board into a carton after printing is done. Only those products where printing virtually constitutes a culminating process of manufacture for obtaining the end product could be called a product of the printing industry, and judged by this criterion, the printed cartons could not be held as a product of printing industry. It also observed that the cost factor on account of printing, by the very nature of things, vary from design to design.

The same view of the Government of India was reiterated in M/s. Rollatainers Ltd., Faridabad [1982 (10) ELT 281]. It will be noticed that the revisionist in this case was the respondent-Company in the instant appeal. It was observed :

'9. .... It is not assessee's case that every printing press, which is undoubtedly and inexorably associated with the processes of printing, could not be expected to produce a printed carton, which would certainly be the case if by mere printing such products are to be called products of printing industry. Even on a common understanding of the scope of the term 'printing industry', one would associate printing industry with an industry which is 'practicing the art of printing, such as, by way of publishing a poster or a book. To include all industries which have something to do with printing as one of the components of that industry within the scope of printing industry would tantamount to enlarging the scope of the exemption Notification No. 55 of 1975 (as amended) which is outside the function of the quasi-judicial authorities who are called upon to interpret a notification and need do so strictly on the basis of the plain meaning of the language of the notification. This is quite evident from the fact that even newspapers and periodicals, which would normally be associated with printing industry, have been specifically brought within the purview of the aforesaid notification only by the addition of the words 'including newspapers and periodicals' after the words 'all products of printing industry' appearing against Sl. No. 13 of the aforesaid Notification No. 55 of 1975. ...'

'9.1. It cannot be disputed that an ordinary carton, without any printing it, would be treated as a product of packaging industry and would not be entitled to the benefit of Notification No. 55 of 1975. It would be ludicrous that the very cartons, because there is some printing on it should cease to be considered as products of packaging industry and should be treated as products of the printing industry, entitling them to the benefit of Notification No. 55 of 1975. Packaging is certainly different from Printing. It is an innovation that reduces packaging costs, enhances keeping quality, facilitates product use, increases control of critical ingredients effects a more complete and direct communication of marketing claims, allows the development of totally new products, makes possible longer-in-use storage, and contributes directly to public health and welfare. The Machinery required for making packages may comprise not only a printing press but also separate and additional machines for cutting, slitting and creasing the board, for converting it into a carton. As observed by the Government in the case of Vijay Flexible Ltd., only those products where printing virtually constitutes a culminating process of manufacture obtaining the end product, could be called a product exclusively of the printing industry. The exemption provided in Notification No. 55 of 1975 (as amended) could be made available only to products exclusively of printing industry and not to products which have undergone printing at some stage of its manufacture. In this connection, the Government consider it pertinent to observed that trade understands the printed metal containers as metal and not as a product of printing industry - and this is not so because there is a separate entry for metal containers in the Central Excise Tariff. Similarly the printed cartons are known as cartons meant for packaging i.e. a product of packaging industry and not as a product of printing industry ....'

In Collector of Central Excise, Bombay v. R. M. D. C Press (P.) Ltd., Bombay [1987 (29) ELT 957] the revision before the Central Government was disposed of by majority decision taking the view that the show cause notice issued to the respondent was barred by time. However, in the dissenting opinion one Member of the Tribunal held that the notice was not time barred and further went on to hold that printed cartons were products of printing industry and not of packaging industry. Later in Collector of C.Ex. v. I.T.C. Ltd., [1988 (38) ELT 76] a Bench of the C.E.G.A.T. held that printed cartons were products manufactured by printers and not by persons engaged in the manufacture of plain cartons. Hence the printed cartons would be a product of printing industry rather than packaging industry. The Tribunal in coming to this conclusion has referred to some literature relied upon by the respondent in this case before the learned single Judge as also before us. The Judgment of the learned single Judge, which is in appeal before us, was relied upon before the Tribunal. The Tribunal also noticed a judgment of a Division Bench of the Andhra Pradesh High Court reported in Golden Press v. Deputy Collector of Central Excise [1987 (27) ELT 273]. The Tribunal agreed with the view taken by a learned single Judge of this Court (the judgment under appeal) and distinguished the Division Bench of the Andhra Pradesh High Court by observing that their Lordships of the Andhra Pradesh High Court also held that two views are possible and did not interfere holding that the view taken by the authorities was also a reasonable view of the matter. The Tribunal referring to several publications concluded that in the trade, making of printed cartons is understood as a specialised work undertaken by printers and the manufacture of printed cartons is accepted in trade as an activity of printing industry. The mere fact that the plain cartons would not be eligible for the benefit of duty exemption, could not be a reason to deny the benefit of duty exemption to printed cartons. It further rejected the contention of the revenue that cartons remains cartons after being printed, holding that it was not as if a person who requires printed carton would purchase plain cartons and have them printed on. Such a person would unnecessarily approach a printer, who would be the card board, cut, printed, folded and pasted in his own establishment. The argument based on the relative cost of printing vis-a-vis the other connected activities was rejected. We have already made our observations on these points earlier in this judgment and it is not necessary for us to repeat the same reasons over again. In our view, the basic fallacy in the reasoning of the Tribunal is the assumption that whatever comes out of an establishment which undertakes printing work must necessarily be a product of the printing industry without having regard to the primary function of the product, which is produced at such establishment.

This brings us to a consideration of the judgment of the Division Bench of the High Court of Andhra Pradesh in Golden Press's case. The decision of the learned single Judge of this Court was relied upon by the petitioner before the High Court of Andhra Pradesh. But their Lordships dis-agreeing with the view of the learned single Judge of this Court, held that printed cartons are not products of the printing industry, but products of the packaging industry. The learned Judges have also referred to some of the text-books, which have also been cited before us.

'17. We must approach the issue from another angle : admittedly, printed carton is a manufactured product. In other words, a process of manufacturing is involved in preparing the printed cartons. What is that manufacture The only answer must be that the manufacturing involved is that of printing and preparing the cartons. The petitioner is supplied mere card-board. It first cuts them into size, then prints them as desired by the customer, and then cuts and creases the same and also applies the paste or gum, as the case may be. It thus brings into existence a cartons, and a printed carton at that. Carton - making is not the job of a printer. Merely because the printer also prints some matter upon the carton, the printed carton cannot, and does not become a product of printing industry........'

'18. .... We are of the opinion that this definition is not only wide, but must have been set out for a different purpose. According to this definition, cartons, plastic containers, and many other forms of packaging are also included within the expression 'printing' which in our opinion, is going a bit too far. It is difficult to conceive how plastic containers and other forms of packaging like metal cans, tins, etc. become the products of printing industry merely because some or other printing is also involved. The plastic containers must legitimately belong to plastic industry; similarly, the carton and other forms of packaging rightfully belong to packaging industry.'

.... It is stated that manufacturers of printed cartons in U.K. are also the members of 'British Printing Industries Federation'. But, as we have observed hereinbefore, one must reasonably draw a line and say that, everything that a printer may choose to do does not necessarily become the job or work of printing industry for the purpose of the exemption notification. For his own purposes, or for reasons of business, a printer may undertake the manufacture of cartons, cans, tins, plastic containers, etc., but all that cannot reasonably be included within the expression 'printing industry', nor can they be called the products of printing industry. Nor are we impressed by the argument that the impugned order is wrong because it applies the 'end use' test. The end-use test becomes relevant if a printed carton is used for some other purpose and the authorities seek to place the printed carton under some other tariff item, than Tariff Item No. 68 on that basis. Thus, the observations of the Supreme Court in Dunlop India Limited v. Union of India (supra) are of no assistance to the petitioner herein.

20. So far as the decision of the learned single Judge of the Karnataka High Court is concerned, the learned Judge appears to have been impressed by the text-books, which say that printed cartons are products of printing industry; but, if one were to go by those texts, even plastic containers and all other forms of packaging would also become products of printing industry, merely because they involve some printing as well, which, we think, would be an unreasonable thing to say. We are, therefore, unable to agree with the view taken by the learned Judge.'

It was then observed that the most that could be said in favour of the petitioner was that may be two views are possible. But once the authority has taken one view, this Court is exercise of its extra ordinary jurisdiction under Article 226 of the Constitution of India would not interfere unless it is shown that the very reasons for classification are foreign to the proper determination of the classification. We are in respectful agreement with the view taken by the High Court of Andhra Pradesh.

16A. It was also urged before us on behalf of the revenue that in the instant case only show cause notices had been issued to the respondent-Company and it could have very well shown cause before the concerned authority and if dis-satisfied with his decision, it could have resorted to other remedies provided under the Act. Since the respondent-Company had an effective alternative remedy, their approach to this Court with a writ petition at this stage was premature. We do not think that on this ground relief can be refused to the respondent-Company. The fact that an alternative remedy exists, does not affect the jurisdiction of this Court to grant relief in exercise of writ jurisdiction in appropriate cases. Since the writ petition filed by the respondent-Company was admitted by this Court and the learned single Judge has exercised his discretion and considered the petition on merit, it would not be proper for us to reject the writ petition on the ground of existence of alternative remedy. However, we are also not persuaded to hold that the issuance of the two show cause notices was without jurisdiction or so arbitrary and unreasonable that they deserve to be quashed by this Court. In fact, we have taken the view that the printed cartons are not the product of printing industry which itself justifies the issuance of show cause notices to the respondent-Company.

17. In the result, this appeal is allowed, the judgment and order of the learned single Judge is set aside and the writ petition is dismissed.