Prabhat Plastic Industries Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-29-2005

Judge : A T V.K.

Appellant : Prabhat Plastic Industries

Respondent : Cce

Judgement :

1. As Shri Prem Ranjan, learned Advocate, mentioned that M/s. Prabhat Plastic Industries have deposited the entire amount of penalty imposed on them, Stay application has become infructuous and is dismissed as such.

2. Heard the learned Advocate and Shri Vipin Verma, learned DR. In this matter Appellants manufacture seat covers. The Central Excise Officers, on visit of the factory premises of the Appellants on 30.1.2003, found 25630 ring covers/rings (components of seat covers) and 1300 pieces of seat covers. The Officers also found 60 bags containing components. The search of adjacent premises of the Appellants also resulted in recovery of 11 cartons of seat covers and 150 pieces of seat covers bearing brand name such as "Hindustan". The goods seized at first premises were bearing various brand names including "Safari". The Assistant Commissioner, under Order-in-Original No. 10/2004 dated 27.2.2004 confiscated all the goods recovered and seized by the Officers with an option to redeem the same on payment of fine of Rs. 57,000/-and imposed a penalty of Rs. 10,000/- which has been confirmed by the Commissioner (Appeals), under the impugned Order, holding that the Appellants were manufacturing excisable goods bearing

brand name of 'Safari' at least without getting themselves registered with the Department and without maintaining any account of goods.

3. The learned Advocate has contended that the components of seat are not excisable goods as these cannot be cleared as such being unfinished goods; that they were manufacturing seat covers under their own brand name such as Symphony, Hindustan, Supreme and Sonsera and were eligible for small scale exemption under Notification No. 8/2000-CE dated 1.3.2002; that as such they were neither required to obtain Central Excise Registration nor required to maintain any records.

4. I have considered the submissions of both the sides. There is force in the submissions of the learned Advocate that as the Appellants were manufacturing goods under their own brand name, they were not required to obtain Registration and maintain any record under the Central Excise Law. Even the Commissioner (Appeals) has given a specific finding hat "there is no evidence to establish identity of particular person/persons whose brand names were used by the appellants except in the case of safari brand." I also observe that there is no denial by the Appellants that they were manufacturing seat covers with brand name Safari in respect of which SSI exemption will not be available to them and they would be required to obtain Central Excise Registration and to maintain statutory records. Taking into consideration all the facts and circumstances of the case I hold that the goods bearing brand name of another person are liable for confiscation and penalty is imposable on the Appellants. However, as both redemption find and penalty are on the higher side, I reduce the same to Rs. 10,000/- and Rs. 5000/- respectively.