

**Super Mix (India) Pvt. Ltd. Vs. Commissioner of C. Ex.**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Jan-09-2006

**Judge :** S Kang, Vice-, N T C.N.B.

**Appellant :** Super Mix (India) Pvt. Ltd.

**Respondent :** Commissioner of C. Ex.

**Judgement :**

2. Appellants are contesting duty demand of Rs. 7,85,773/- made in the impugned order as well as penalty of Rs. 50,000/-. The contention is that the appellant is only carrying out some incidental processes not amounting to manufacture and, therefore, is not liable to pay duty at all.

The appellant is a manufacturer of Rubber Rolls on which it discharges Central Excise duty. It also carries out some job work for other manufacturer of Rubber Rolls. The duty demand is in regard to the job work so carried out. Therefore, the moot question is whether the processes in question bringing into existence new goods so as to make appellants a manufacturer of goods. The appellant received perforated steel sheets, which are cut to dimension for use in Rubber Rolls. The appellants bend those sheets into rounded shape and welded them. Sandblasting is also carried out. Sand-blasting is a process of cleaning by blowing sand at iron sheets at high pressure. The duty demand is under Heading 73.06 of the Central Excise Tariff. That heading relates to other tubes, pipes and hollow profiles. The submission of the learned Counsel for the appellant is that, if at all, the item could fall only as 'hollow profiles'. He submits that even at the time the appellant

received the perforated sheets those sheets are hollow profiles. It is not the processes of bending, welding and sand blasting that the appellant carried out which makes them hollow profiles. According to the learned Counsel these processed do not bring into existence welding a new article.

The processed profile goes back for use in the manufacture of rubber rolls.

4. We find merit in the submissions of the appellant. We have seen the samples at various stages. The perforated sheets received by the appellants can fall under the heading hollow profile. The appellant bends and welds such sheets at four points. After such welding also, the hollow profile remains the same, though in a rounded shape.

Sand-blasting is a process of cleaning and, cannot be called manufacturing at all. Thus, no new product with a name and use emerged at the hands of the appellant. There is no manufacturing and, therefore, occasion for demanding duty does not arise. Duty demand and penalty are set aside and the appeal is allowed to that extent.

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