

Pharmalab Engineering (i) Ltd. Vs. the Commissioner of Central

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SooperKanoon Citation : sooperkanoon.com/43644

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Sep-12-2006

Reported in : (2007)(114)ECC8

Judge : W T Archana, M Veeraiyan

Appellant : Pharmalab Engineering (i) Ltd.

Respondent : The Commissioner of Central

Judgement :

1. The dispute in the present appeal relates to the benefit of Notification No. 51/93 dated 28/02/93 to the appellant's products "Packing Inspection Table" classified by them under Chapter heading 8422.90. The notification in question grants exemption to all goods falling under heading 8422.90, other than the parts. Undisputedly, the goods fall under heading 8422.90. However, the benefit of the Notification has been denied to the appellants on the ground that the said "Packing Inspection Table" cannot be considered to be a complete machine, inasmuch as the same is used only for visual inspection of filled/sealed bottles before labeling operation. The revenue authorities have not considered the said use of the table as the part of whole procedure of packing operation.

2. On the other hand, the appellants have contended that the machine used for inspection of filled/sealed bottles/vials before their packing has its own drive. Bottles/vials put on the table move forward automatically. That the same has to be classified along with the main machine under heading 8422.90 and there is no

basis for the finding arrived at by the authorities below that the table in question is part of the automatic packing line.

3. We have seen the photograph of the said table produced on record, as also the technical material. It is seen that the inspection table is not the ordinary kind of a table but has a gear drive motor attached to it with variable speed. It consists of a tabular structure with a moving belt to carry the bottles, from the capping machine for inspection and then for onward transmission to the labeling machine. A lighting arrangement is provided by means of a sunmica hood arranged over the table. Black and white partition is provided for visual inspection. The belt is provided with an independent drive mechanism consisting of 0.5 HP TEFC Motor coupled to a gear reduction system, through a mechanical speed variator. A stainless steel belt provided at the centre of the table brings in the bottles which are automatically bifurcated for two operators sitting on the opposite sides. There is sufficient space provided for collection of bottles for inspection. The inspected bottles are kept back on the moving belt in the centre, which transports the bottles further to the labeling machine. As such, it is seen that the table is not a part of the packing equipment but is a complete pharmaceutical packing machine itself and has to be classified as packing machine under chapter heading 8422. As such, we are of the view that concessional rate of duty in terms of Notification No. 51/93 was available to the appellants. Accordingly, we set aside the differential duty of Rs. 5576/- confirmed by the authorities below and allow the appeal with consequential relief to the appellants.