SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

**Shortprints Vs. Collector of Central Excise**

**Shortprints Vs. Collector of Central Excise**

**SooperKanoon Citation** : sooperkanoon.com/6233

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

**Decided On :** Feb-01-1991

**Reported in** : (1991)(35)LC152Tri(Delhi)

**Judge** : G Sankaran, V T K.S., S Peeran

**Appellant** : Shortprints

**Respondent** : Collector of Central Excise

**Judgement** :

1. This appeal concerns a film titled "Samasyasuli" produced in Kannada. The Assistant Collector classified the film under item No.37II(iii) of the First Schedule to the Central Excises arid Salt Act, 1944 (the Schedule is referred to hereinafter as the 'CET') rejecting the appellants' claim for item No. 37II(i). An appeal against this order was dismissed by the Collector (Appeals). Hence the present appeal.

3. The certificate issued on 1.10.1981 by the Central Board of Film Censors certifies the film (Samasyasuli) as a documentary and of gauge 35 mm and length 603.90 metre. We arc concerned in the present appeal not with the 35 mm format but the film in the 16 mm format. The certificate has also a note to the following effect: In the event of a copy of the film being prepared in a gauge other than that mentioned in the certificate, the certified length shall be deemed to be the corresponding length appropriate to that gauge.

It is a matter of common sense, and needs no argument, to comprehend that when a film in gauge 35 mm format is reduced to gauge 16 mm, its length must inevitably get reduced. In any event, there is a note (based on the instructions of the Central Board of Excise and Customs), appearing at page 635 in the Central Excise Tariff for 1982-83 (CEN-CUS Publication) to the following effect: 1000 ft. of a 35 mm film when reduced to 16 mm gauge would measure 400 ft. and conversely, when 400 ft. of a 16 mm film are blown up into 35 mm, the corresponding length would be 1000 ft.

Thus, the 16 mm format of the subject film in 35 mm format will measure considerably shorter than the length of 603.90 metres of the latter, 241.56 metres to the precise, adopting the above formula. We do not see why the Collector (Appeals) had to ask for a Censor Board Certificate for the 16 mm version, especially in the context of the note appearing in the Certificate for the 35 mm format. The Collector has based his decision also on the non-production by the appellants of the order placed on it by the Karnataka Film Development Corporation for supply of the 16 mm print. But they had submitted before him the classification list, the relevant excise records, delivery note, invoice, proforma invoice and acceptance. The proforma invoice addressed to the Corporation shows the particulars inter alia as- To printing and processing charges on "Samasaya Suli"-16 mm col.

Doc. 2 (242 + 10Pr. L.) : 504 Mts.

4. While Shri Gopal Prasad relied on all the aforesaid evidence, Shri Narasimha-murthy defended the orders of the lower authorities for the reasons set out therein.

5. Having considered the material on record and the submissions before us, we have no doubt that the subject goods were classifiable under item No. 37II(i), CET. By virtue of Central Excise notification No.49/74 dated 1.3.1974, they were eligible for duty exemption since they fell under item No. 37II(i) and the Censor Board Certificate showed it to be a documentary film. [In this context, we must say we are surprised to note the attitude of the lower authorities who seem to consider that a film (35 mm) certified as a documentary cannot be accepted as a documentary in the 16 mm format unless accompanied by another Censor Board

Certificate. This really amounts to non-application of mind and a tendency not to give full, proper and objective consideration to the material on record. This, we deplore.

6. In the result, we set aside the orders of the lower authorities and allow the appeal with consequential relief to the appellants.

**SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com**