Vimala Printers Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-18-1991

Reported in : (1993)(66)ELT231TriDel

Appellant : Vimala Printers

Respondent : Collector of Central Excise

Judgement :

1. Briefly stated, the facts are that the appellants have been manufacturing and clearing printed boxes and cartons made from duplex boards and availing exemption given to small scale units under Notification No. 83/83-C.E., dated 1-3-1983. On 10-10-1984 the Assistant Collector, Central Excise, Trivandrum issued a show cause notice to the appellants demanding a duty of Rs. 7733.32 under Rule 9(2) on the ground that they had exceeded the limit of Rs. 6 lakhs in November, 1983 and of Rs. 7.5 lakhs in March, 1984 and had not complied with the Central Excise formalities under Rules 173B, and 173C and had not paid duty after crossing the exemption limit of clearance at Rs. 7.5 lakhs. The appellants took the plea that in respect of cartons belonging to M/s. Sea Pearl Industries, Chandiroor they had only undertaken job work of printing and punching and this did not amount to 'manufacture'. Such goods could not form part of the goods of their unit for arriving at the value of the clearance and if the value of these goods is excluded, the appellants continue to remain in the exempted sector. The Assistant Collector did not accept their plea and held that in view of the specific item for boxes, cartons, bags and other packing containers whether or not assembled or

unassembled condition in the Tariff Entry 17(3), the printing and punching of cartons was excisable in 1983-84 and confirmed the demand. A plea was taken before him that in view of the Karnataka High Court judgment in Rollatainers Ltd. v. Union of India, reported in 1984 (18) E.L.T. 217, printed cartons were exempt from duty under Notification No.55/75-C.E., dated 1-3-1975. The Assistant Collector decided that during that period printed cartons, boxes and other packaging containers were not specifically mentioned in the Central Excise Tariff whereas in the case before him, Item 17(3) which is reproduced below, makes a specific mention of these articles.

"17(3) Boxes, cartons, bags and other packing containers (including flattened or folded boxes and flattened or folded cartons) whether or not printed and whether in assembled or unassembled condition." 2. The Collector of Central Excise (Appeals) has upheld this view. In the appeal before us, the plea is that the property in the goods of M/s. Sea Pearl Industries had never, passed to the appellants and since they had merely undertaken job work, there was no justification for levying duty on such job work. Dr. S. Narayanan, the learned Counsel for the appellants, while reiterating this view, placed reliance on the following decisions :- 3. It was held by the Gujarat High Court in the first case that mere printing of design and monograms and other description of goods regarding the quantity or the name of manufacturers does not convert packing or wrapping into any other kind of paper. The ratio of the second decision was that printing blank paper with design and reading matter will not bring into existence a new product.

4. Refuting the arguments of Dr. Narayanan, the learned Jr. D.R., Shri Murthy stated that it is only after punching that the process of manufacture becomes complete and since manufacture takes place in the appellant's factory, it is here that the duty liability arises.

He also supported the view of the lower authorities that because of a specific entry in the tariff, there was no escape from duty liability on the cartons after punching and printing. He placed reliance on the following decisions in support of his arguments.Universal Autocrafts (Pvt.) Ltd. v. Collector of Central Excise, -1990

(45) E.L.T. 485 (Trib.)Collector of Central Excise v. Harrison Synthetic Bristles - 1989 (44) E.L.T. 583 (Trib.) 5. In the first case it was decided that corrugated board and corrugated boxes manufactured from kraft paper on job work basis emerged a new article after completion of manufacturing process and, as such, duty was leviable on the entire value of the goods and not on the job charges alone. It was held in the second case that conversion of materials like bristles, plastic handles, packing materials received from customers into tooth brushes in packed condition amounts to manufacture and M/s. Harrison Synthetic Bristles were not entitled to the benefit of Notification No. 119/75 dated 30-4-1975. .

6. We have carefully considered the rival submissions made before us.

Although the nature of punching done by the appellants has not been indicated in any of the documents placed before us, 'punching' as commonly understood in the context of manufacture of cartons, would mean cutting the paper/board to proper size and giving it the required shape. After cutting, the paper/board are converted into cartons so that they can be folded to get the required shape of cartons. The learned Jr. D.R. has stated that the process of manufacture becomes complete after the punching takes place in the appellants' factory.

This argument has not been rebutted by the learned counsel for the appellants by producing any material before us. In the circumstances, it is evident that the process undertaken by the appellants amounted to manufacture within the meaning of Section 2(f) of the Central Excises and Salt Act. Consequently, Central Excise duty was payable by the appellants on the cartons manufactured in their factory. The value of clearances of these goods had to be taken into account for the purpose of Exemption Notification No. 83/83-C.E., dated 1-3-1983.

7. In the light of the above discussion, we uphold the impugned order and dismiss the appeal.