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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-07-1983

Reported in : (1984)(15)ELT216TriDel

Appellant : S.K. Industries

Respondent : Collector of Central Excise

Judgement :
1. This appeal dated 6th May, 1983 has been filed on behalf of M/s.

S.K. Industries, 82-Vijaya Nagar Colony, Agra against the order of the Collector of Central Excise. Kanpur No. 2/Collr, MP/83. (This order does not bear any date. Although the appellant says that it is dated 5-4-1983, we are unable to find where this date has been shown.) 2. The dispute is about a product manufactured by S.K. Industries of Agra and which they call leather dressing. According to S.K.Industries, a leather dressing is a liquid chemical composition of aqueous or organic solvents. Natural and synthetic resin like rosin and maleic resin are dissolved in denatured spirit in a circular tank.

Retarders such as glycerine, butyl acetate, dibutyl phthalate are used.

The dissolved solution is filtered remove dust particles through a centrifugal separator. The solution is then pumped into storage tank from which bottles of requisite sizes for sale or marketing are filled.

3. A great deal of argument has been presented on behalf of the two sides each canvassing their points of view. S.K. Industries represented by Shri K. Narasimhan, Advocate argued at the hearing on 24th, 25th and 26th October, 1983. He argued their product was registered under the Trade and Merchandise and Marks Act in December, 1969 as manufactures of leather dressings and not in class IV. Excise licences certified them to be manufacture of leather dressing. By virtue of this classification, they are exempt from payment of the State excise duty which the manufacturers of varnish would have had to pay. The Indian Customs Tariff Guide, 14th edition, gives a ruling by the Central Board of Revenue showing cremol leather dressing to fall under 87 of Custom Tariff of 1934, Indian Tariff Act, (this item covers goods not otherwise specified) even though that tariff also carried an item specifically for varnish, paints, etc. in item 30. He pointed out that the Indian Trade Classification published by the Government of India gives a code number to pigments, paints, varnishes and related material under group 533 whereas "prepared glazings, prepared dressing and prepared mordants of a kind used in the textile paper, leather or light industries" is grouped under group 598. The Customs Tariff of 1975 places varnishes under chapter 32 but prepared dressings and mordants of the kind used in textile, paper, leather or like industries are placed in Chapter 38. Brussels Tariff Nomenclature Chapter 38-12 covers prepared glazings, prepared dressings of a kind applied to yarns, fabrics, paper and paper board, leather and similar material used usually during finishing processes ; it also refers to preparations containing, among other things, rosin or similar substances. The preparations which are used in paper and leather industries, etc.

contain, in addition to certain basic constituents, other products such as whitening agents, softening agents, glycerol, lubricants, etc. etc.

4. The learned counsel for the appellant referred to the Indian Standard 346-1952 which carries specification for hard clear spirit varnish. In the notes, the composition is shown as containing not less than 40% by weight of spirit soluble resin dissolved in denatured spirit with suitable plasticisers, if necessary, in suitable proportions to satisfy the requirements of the standard. One of the characteristics that is required of the varnish is freedom from rosin and the

standard prescribes the test for determining rosin reaction.

Various certificates have been received to show that S.K. Industries' product Camel Brand is used in the shoe industry as a leather dressing or finishing of shoes. Some of the authorities who have given these certificates are Bharat Leather Corporation, Central Footwear Training Centre, U.P. State Leather Development and Marketing Corporation. In a letter dated 29-11-1975, the Director of Small Scale Industries Institute, Agra wrote to the Excise Commissioner, Allahabad to say that the dressing manufactured by S.K. Industries was satisfactory and was used by various footwear and leather finishing units. The Dy. Marketing Manager of the State Trading Corporation of India, Agra wrote a letter dated 31-12-1981 to S.K. Industries to say that the leather dressing manufactured by the appellant was tested in their laboratory and they found that it contained 30% solid content and the rest being methylated spirit and butyl acetate. He, therefore, held the opinion that the leather dressing manufactured by S.K. Industries was not a varnish but a leather dressing suitable to be applied on leather items.

However, the Collector went largely by the report dated 17-10-1981 given by the Principal, Govt. Leather Institute, Agra in which the Principal of the Institute said that the dressing manufactured by the S.K. Industries contained rosin, shellac and Maleic resin dissolved in alcohol and that the preparation was extensively used in leather/footwear industry for producing extra gloss on the surface of leather. He ended by declaring finally that it could safely be termed as varnish as it fulfilled all the technical requirements for the same.

He also relied on a report dated 25th January, 1982 from the Chemical Examiner in the Central Revenues Control Laboratory, Govt. of India, New Delhi that the sample drawn from S.K. Industries factory was in the form of clear light brown coloured liquid, composed of natural resin and synthetic resin dissolved in organic solvent and it had the characteristics of varnish . But the chemist added that such compositions are known to be used as leather finishing/dressing.

5. The learned counsel for the appellant urged that varnishes never contained rosin but their product did. A varnish is meant to be a hard coating on hard

surfaces, but if we see from the orders received by S.K. Industries the customers were people who process and trade in leather and require for their work leather dressings. He quoted authorities like the book SHELLAC published by Angelo Brothers Ltd., Calcutta. In this book leather dressings aim at producing a flexible waterproof glossy finish. Shellac based dressing adhere tenaciously to the leather, are perfectly soft and flexible and give high lustre. They are quick drying and free from persistent odours. Leather dressings are either of the spirit or the aqueous type, the latter being more popular. The TEXT BOOK OF FOOTWEAR edited by J.H. Thornton, Head of the Boot and Shoe Department, Northampton College of Technology describes leather dressing. According to this book, synthetic resins have recently been developed for use in shoe dressing, and are usually applied by the spray method. They are flexible and can be supplied in various degrees of brightness. The dressing is colourless as otherwise the linings and edges will be stained. Modern Shoe Dressings (The Raw Materials, Manufacture and Application) by W.D. John, Consultant Chemist to the Shoe and Leather Industries, Chief Chemist, Empire Stein and Finish Co. published by R.H. Johns Ltd., Newport, contains a section on spirit dressings which are said to be prepared by dissolving natural resins such as shellac, Sandarac, Benzoin and Manila-Copal in mixtures of organic solvents usually industrial methylated spirit, grain alcohol, butyl acetate and so on. Any brittleness of the resins is counteracted by the addition of balsam, oils and synthetic plasticisers. The book reports that in shellac spirit dressings both soap and glycerine can be used for imparting flexibility to the resin, but a number of naturally occurring oleoresins and essential oils which are readily soluble in alcohols are preferred, being occasionally supplemented by some of the organic plasticisers. The Condensed Chemical Dictionary, Revised and Enlarged by Arthur and Elizabeth Rose and published by the Asia Publishing House contains an article on shellac in which its uses are shown as paints, stains, varnishes, leather dressings, polishes millinery, etc. etc. This dictionary categorises varnishes separately from leather dressings.

6. It was urged on behalf of the appellants that S.K. Industries have been manufacturing leather dressings from 1955 but until 1981 or thereabouts the Central Excise did nothing to point out that they were wrong in clearing the goods without registration with the Central Excise, obtaining a licence and following the

excise regulations. They had always sold their products as teather dressings and never as varnish and that there were other people who produced similar dressing which were still being assessed as they were assessed previously and about which the Central Excise had done nothing. These producers are a small scale enterprise and they are unable to meet competition if duty is going to be placed on them. They certainly cannot bear the imposition placed by the Collector in his order referred to above.

7. The learned counsel for the Central Excise Department argued that the two test reports show clearly that the product was a varnish assessable under item 14 of the Central Excise Tariff. He quoted from the Book Outlines of Paint Technology by William Morgan on spirit varnishes. The book shows that shellac is a widely used resin in this class and is dissolved in industrial methylated spirit. A number of spirit varnishes and polishes are made from shellac alone or in admixture with other resins. The most important of these are :- These are shown to contain shellac of one kind or another and their solid contents range from 25% of French Polish, Button Polish and White Polish to 50% for Brown Hard. Rosin is often added. But the book says that the practice is not recommended specially in knotting where it detracts from the prime purpose of the material.

8. The learned counsel for the department then referred to Modern Practice in Leather Manufacture by John Arthur Wilson. He draw special attention to Chapter 17 on Finishing Light Leathers. In this Chapter (Page 613) there is a reference to the 'the third coat' which is usually called the varnish coat. This is made by pouring 50 gallons of linseed oil into an iron kettle and in which 200 oz of Prussian blue is added and 4 to 10 ounces of litharge. After boiling and heating, and other processing, the compound is cooled and thinned with about 37 gallons of naphtha and then stored in tanks and kept at least 3 weeks before use, thus allowing it to clear.

9. The learned counsel for the department was sceptical about the value of the Indian Trade Classification for purposes of arriving at the correct classification for Central Excise. He said that this has no application as the trade classification is not meant for the purpose of assessment of goods to Central Excise duty. The

manufacturers may have called their product leather dressing, but the test reports show clearly that the products have the characteristics of varnish and must therefore be classified as varnish for purpose of classification. He was not impressed by the appellant's claim that they had manufactured the goods from 1955. There is no evidence to show that they had ever tried to take clarification from the Central Excise for the purpose of proper assessment of their goods.

10. The authorities quoted by him like the books by William Morgan and John Arthur Williams proved that varnish is used in the leather industry and that in all these compounds shellac always figures. He refuted the argument of the appellant that rosin is absent in varnish by pointing out that William Morgan says in his Outlines of Paint Technology that rosin is often added although the practice was not recommend specially in knotting. The learned counsel says that this must be understood to mean that it does not recommended rosin only in knotting while for the other 3 or 4 varnishes rosin is an ingredient.

S.K. Industries products contain rosin and since rosin can be present in varnishes, he must take S.K. Industries, leather dressing to be varnishes.

11. Vast and voluminous evidence and areuments were presented on both sides and we have read the testimonies and pondered on the reasonings of the two learned counsels with great care. The solution of the problem is to decide whether there can be leather dressings of the kind claimed by S.K. Industries which cannot be classed as varnish. The problem can also be viewed as one in which we have to decide whether S.K. Industries leather dressings are or are not varnishes, given their constituents and composition and the reports by the two laboratories.

12. The Collector had held that "by evaporation of the solvent these impart to leather a soft glossy finish". Therefore, he held that "the product was classifiable under Item 14-11 (i) as varnish". He said that an S. K. Industries, product 'leather dressings' answer the generic description of 'spirit varnish' and are also used similar to varnish.

They are applied on leather products like varnish.

13. The Collector began his analysis of the problem by a reference to the report of the Chemical Examiner of the Central Revenues Control Laboratory, New Delhi to which we have already referred. He also referred to the test by the Principal of Government Leather Institute, Agra to which also we have referred already.

14. In his discussion the Collector said that the term varnish in tariff item 14 of the Central Excise Tariff has not been defined.

Therefore, he took recourse to two judgments-one of the M.P. High Court and the other of the Bombay High Court in the cases of Akhtar Abbas v.Assistant Collector, Bhopal and Ors. (AIR 1961 M.P. 335) and Jagdish Dengwekar v. Collector of Central Excise, Poona. According to these judgments, varnish is a generic name given to a homogeneous solution of gums or resins in alcohol, linseed oil or the like which is coated on various articles for protective purposes. French polish is only a species being a homogeneous solution in alcohol with the result that the volatile solution evaporates quickly. Even on the basis of chemical composition, French polish could be regarded as properly classifiable under 'Varnishes'. According to the pronouncement in Mandgi Brothers v.State of Karnataka, (1975) 35 STC 410 (Karnataka High Court) the word 'varnish' when used as a verb means "to cover with a liquid which produces when drying a hard glossy surface". The word 'varnish' is also used as a noun. Varnish is a liquid preparation. There are two classes of varnish-one class is "oil varnishes" which are essentially solution of resins (natural or artificial) or of asphalt in drying oil. The other class is "spirit varnishes" which are solutions of resins (natural or artificial) asphalt, cellulose, esters, etc. in volatile solvents such as alcohol, spirits or turpentine or dmyl acetate.

According to this generic description therefore a solution of natural and artificial resins in alcohol can be termed as 'spirit varnish'.

15. The Collector then referred to certain text books and technical authorities. The Chambers Technical Dictionary describes varnish as a solution of resin or resinous gum in spirits or oil applied as an extra glossing coat on a painted surface which it serves to protect.

According to the Concise Chemical and Technical Dictionary, varnish is a liquid composition of a resinous substance in a volatile solvent which is applied to a surface in a thin layer that hardens to a transparent or translucent film on exposure to air. Then he reproduces an extract from the Mcgraw Hills Encyclopaedia of Science and Technology on varnish which is defined as a transparent surface coating which is applied as a liquid and then changes to a hard solid.

Varnishes are solutions of resinous materials in a solvent and dry by the evaporation of the solvent or by a chemical reaction either with oxygen from the air or by some other means including absorption of atmosphere moisture. Spirit varnishes are those in which the evaporation of solvent is the only drying process; the solvent is usually alcohol, although the term is used for similar coatings made with other solvents. Shellac varnish made by dissolving shellac in alcohol is the most common type. Varnishes are used to change the surface properties of a bulk material without significant change in the appearance or the bulk properties. He then quotes the BTN which classified under heading 32.09 varnishes and lacquers together as liquid preparations for protecting or decorating surfaces. They are said to usually consist essentially of a film producing substance with added solvents and thinners. They from a dry water insoluble relatively hard more or less transparent or translucent smooth continuous film which may be glossy, matt or satiny.

16. In rejecting the factory's claim the Collector pointed to the literature produced by the factory which show that the leather dressing aims at producing a flexible water proof glossy finish; these shellac dressings are soft and flexible and give the high lustre required on glaze-kid footwear. Since a glossy finish on leather is what the Collector holds to be one of the major characteristics of varnish, he held that these products were varnish too. He observes that the party had quoted High Court judgments to show that in classification of a produce one should not go strictly for the scientific and dictionary meaning, but that the classification should be decided on the name by which it is known in the commercial parlance and the actual use to which it is put. Leather dressing was the name given to the product by S.K. Industries themselves ever since they commenced manufacture. It is, therefore, not surprising that the buyers and dealers also referred to it as leather

dressings. He comes to the conclusion that the product leather varnish answers the generic description of varnish because in a Hindi advertisement the product is referred to as a polish as well as a vaseline; and in a Tamil advertisement in Madras it is called a polish.

He draws support from this for his conclusion because the leather dressing gives a flexible water-proof glossy finish on leather.

17. In one paragraph the Collector discussed Chapter 32 of the B.T.N.S.K. Industries had claimed that the composition of leather dressing should show a solution of synthetic and natural resin to the extent of 30% dissolved in denatured spirit. In a letter dated 31-12-1981, the Dy. Marketing Manager, State Trading Corporation said that analysis show the dressing to contain 30% of solids and that the rest was methylated spirit and bulty acetat . The weight of the solvent thus was about 60 to 70% of the solution after making allowance for the butyl acetate. The synthetic resins were products specified in heading 39.01/06 and, therefore, the leather dressing which contains 30% by weight of resin natural and synthetic in more than 50% by weight of denatured spirit was a product covered by S. No. 4 of the notes under Chapter 32. Therefore, according to B.T.N., S.K. Industries' product was covered by heading 32.09/3; and as there was no heading 32.09/3 in the Indian Customs Tariff, the Collector 32 held that the products should be classified under 32.04/12(1) of the Customs tariff. This heading covers paints and varnishes. Note No. 4 under Chapter runs thus : "Heading No. 32.04/12 is also to be taken to include solutions (other than cellodions) consisting of any of the products specified in heading 39.01/06 in volatile organic solvents, if and only if, the weight of the solvent exceeds 50% of the weight of the solution." The Collector rejected the arguments that the leather dressings should be covered under Chapter 38.12 of the B.T.N. because that heading required such preparations to have a basis of starchy substances such as wheat, starch, rice starch, maize starch, etc. vegetable gum resin and similar substances. In addition to basic constituents it should also contain wetting agents like soaps, softening agents like glycerol, lubricants, fillers, preservatives; but these products do not contain any of these ingredients.

18. The only matter that requires to be decided here is whether the leather dressings produced and sold by S.K. Industries are varnishes as held by the Central Excise or not. The Central Excise had produced many testimonies on which they base their arguments that the goods were nothing but varnishes. The foremost are the two chemical reports which we have already referred to-one by the Principal of Government Leather Institute and the other by the Chemical Examiner, The Collector has referred to I.S.I. specification 347-1975 and High Court rulings, but the decisions given in the cases quoted before us relate to whether French polish was a varnish or not. But they all agree that a varnish produces a hard glossy surface when dry. The other authorities quoted by the Collector also say the same thing that a varnish is applied to a surface in a thin layer and that it hardens to a transparent or translucent film on drying or that it is a transparent surface coating which is applied as a liquid and then changes to a hard solid : IS : 347 - 1975 relied upon by the Collector is for varnish. The material contains 18 to 22 per cent of shellac dissolved in denatured spirit.

This can be used for varnishing leather as plasticisers are also used.

And the party is mixing retarders in the product to make the finish less brittle and more soft. But here too the Collector accepts that varnishes were characterised by hardness, though he argues that this fact does not mean a varnish must always form a hard film. He is, however, in error when he apparently equates a plasticiser with a retarder. A plasticiser increases processibility and plastic modification in the direction desired while a retarder slows down a given process which unless retarded, will speed up the process with undesirable results. Retardation is widely used in rubber vulcanization to prevent excessively fast vulcanization or pre-vulcanization.

19. Varnishes and lacquers are generally classed together as being liquid preparations for protecting or decorating surfaces. They form a dry, water insoluble, relatively hard, more or less transparent or translucent, smooth, continuous film. Some authorities include under varnish, japans and enamels, Japans are rarely used now. In important difference between varnishes and paints enamels and pigmented lacquers is that varnishes lack pigments and are,

therefore, less resistant to liquid. The coating effect is generally produced by drying through evaporation and oxidation; but some times polymerisation of portions of the varnish constituents also take place. Oleoresinous varnishes were once of major importance, but alkyd and urethane varnishes have largely replaced them because of greater durability, less yellowing, ease of application and beauty. In many countries pressure to reduce air polluting solvents in varnishes and paints have led to development of water-thinned varnishes.

20. In all spirit varnishes, shellac a natural resin is an important ingredient. Unlike most other natural resins, shellac or lac resin is a product of a parasitic female insect/coccus lacca which, in feeding upon certain trees in India, secretes a protective exudate which eventually coats the twig on which the insect perches, thus furnishing sticklac. Commercial shellac is obtained from this. Recently, many synthetic resins like alkyds, acrylics' epoxies, nitro-cellulose, phenolics, wrethenes, have come more and more to displace the traditional natural products. But shellac is still a widely used resin because of its ease of preparation and application. Other natural resins are Copals, Kauri, Dammer in which truly speaking are fossil resins. But shellac is still widely used being cheap and versatile resin, finding uses in as widely different industries as coatings, furniture a polish, varnish solutions and leather finishes, hair lacquers. The Collector has heavily relied on a number of authorities, and these authorities largely agree that a varnish contains a resin or resinous substance drying to a hard glossy film, the film being either transparent, translucent or opeque depending on the surface finish desired, but he has not shown any convincing evidence that this product 'leather dressing' is a varnish. The two chemical test reports do not really yield the results that the Collector was looking for because they are much too ambivalent in their reporting. The Chemical Examiner of the Central Revenues Control Laboratory pronounces the dressings to have the characteristics of varnish but qualifies this by saying that the compositions are known to be used as leather finish/dressings. The Principal of the Government Leather Institute says the preparation was extensively used in leather/footwear industry for producing extra gloss on the surface of leather, although he ends by saying that it can safely be termed as a varnish, as it fulfils all the technical requirements for the same. We will, therefore, have to examine for ourselves to see if the leather resins produced by S.K. Industries are indeed

varnish assessable under item 14-II (i).

21. The Collector found that the assessment under item 14 was perfectly in order because this item covers, amongst others, "water pigment finishes for leather". We should dispose of this question right at the beginning by pointing out that this item covers pigmented finishes for leather a finish that imparts a colour to leather whatever the desired colour may be. A water pigment finish is a far cry from a varinish and there can be no comparison between the two; and we should not allow ourselves to be confused by the appearance of a leather finish under item 14 simply because the word 'varnish' also appears in the same item. At the hearing before the Tribunal one of the points strongly urged by the learned counsel for the department to argue that the leather dressing was nothing but a varnish was the argument presented by the learned counsel for the appellant when he said that rosin was present in the leather dressing, it was never used in a varnish.

According to the learned counsel for the department in Outlines of Paint Technology by William Morgans, rosin is often added to spirit varnishes but the practice was not recommended especially in knotting.

This according to the learned counsel refutes the appellants' contention that rosin was not used in varnishes. The learned counsel also strongly relied on Modern Practice in Leather Manufacture by John Arthur Wilson, which we have referred to earlier. He referred to articles on the problems of finding a suitable lacquer finishes for leather. The same book contains in Chapter 17, a Chaptar on finishing a light leather from which we can read between pages 557 and 588 that shellac figures prominently in leather finishes. The presence of shellac in leather dressings/ finishes is an old technology; shellac is known to consist largely of oxidised fatty acids. Great care is necessary, of course, in the preparation of the finish/dressing because excessive amounts of shellac in the finish may result in a crusty crack or break on the leather but with the use of plasticisers shellac finishes have produced products free from this defect.

22. Shellac is one of many raw materials used in leather finishes.

Others are : Even milk has been found a good finish material because of the casein contained in it. Eggs even find rase in leather finishing because they draw a hard and glossy surface but these too when used in excess produce what are known as crusty break. Eggs albumen like casein are considered binders. And there are of course natural resins of which shellac are the most widely used in the leather industry in preparation of finishes.

23. A point very strongly urged by the learned counsel of the department in confronting an argument of the appellant that varnishes are seldom used in leather finishing except at a very early stage of preparation of the leather is the book Modern Practice in Leather Manufacture by John Arthur Wilson. This refers to a third coat (page 613) which is also called the varnish coat. This varnish coat is applied by highly skilled skilled workmen who give the surface of the leather a smooth and even surface. Before applying this varnish coat, the leather has to be carefully inspected for dust partides on its surface. The third coat solution or the varnish coat solution is prepared as in the way we have already described above. But reference to the same book shows that the first coat like the third coat is also prepared with linseed oil in an iron kettle except that instead of litharge, the solution receives about 50 oz of umber as a dryer. After various operations like ladling and puddling, naphtha is added when the temperature is right; it is allowed to the cool before applying. This first coat also known as Daub is followed by the second coat called the Brush coat. This is also prepared with linseed oil in an iron kettle, a quantity of measured raw umber and quantities of lead oxide or litherage are added after a certain thickness or consistency is reached. Naphtha is later added and the mixture is allowed to cool.

These processes of coating are used for the preparation of patent leathers which are also sometimes called Japanned leather or enamel leather and the coatings are known as varnish. This, therefore, does not help much in this problem because this process of varnishing and japaning is in the preparation of the raw leather and is more akin to lacquering than varnishing. But the so-called varnish coat is different from varnishing because it contains no resin, natural or artificial which will give the desired hard and brittle surface that is expected from varnishing. We have already observed that a varnish generally is an unpigmented collodial dispersion

or solution of synthetic and/or natural resins in oil and/or thinners and is used as a protective and decorative coating. It leaves behind by evaporation a coating which is hard and glossy. A varnish even acts when properly prepared as a dielectric coat or insulation in electrical components, wirings, etc.

etc. We have seen that shellac is extensively used in various stages of leather preparations and finishing but the finishing preparations are not referred to as varnishes. To be a varnish not only must shellac or one of the other alternative resins, whether natural or artificial, be present in the solution, but the solution or prepartion must also achieve the finish, gloss, hardness, permanency of coating, relatively inflexible surface that one associates with a varnish. In the leather finishings that we have seen, resin was not always present, certainly not in third coat in the preparation of patent leather. But this did not prevent the third coat from being called the varnish coat. It is evident that the name is so applied as a generic and loose appellation to designate the substance that covers or coats the surface of the leather under dressing or preparation. Staining with a substance that coats, colours or brightens is frequently referred to as varnishing.

The word is used to describe anything which dresses up another article and is frequently used as a simile as when a person presents some proposition in a manner that the hearer may be deceived into thinking it better than it is. When somebody covers his mistakes under some specious explanation or puts some interpretation the matter cannot carry, he is said to varnish the truth.

24. The products made by S.K. Industries contain shellac and/or resins with organic solvents. It is sold to people in the leather industries; 39 evidence has been produced that they have sold it to anybody who would use it as varnish as we understand varnish to be used. We cannot agree that it is a varnish simply because it is said to have the characteristics of the varnish, a description apparently given because it contains many ingredients that varnishes contain. But the presence of rosin which has not been disputed by the department and whose absence in varnishes has been vouched for by the I.S.I. throws doubt on the theory that S.K. Industries leather dressings are varnish.

Preparations containing shellac are used in leather finishings and it cannot be said that this preparation, because it may contain shellac and other ingredients, is a varnish. The appellants declares at the hearing before the Tribunal that the dressings are applied to finished shoes to impart a gloss and a good surface; this has not been refuted by the department. All the evidence and all the authorities confirm us in our opinion that these leather dressings cannot be classed as varnishes.

25. We accordingly allow the appeal and set aside the order of the Collector.

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