Kissan Products Ltd. Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-26-1991

Reported in : (1992)(59)ELT471TriDel

Appellant : Kissan Products Ltd.

Respondent : Collector of Central Excise

Judgement :

1. In both these appeals, the issue involved is as to whether the appellants were entitled for the benefit of Notification No. 201/79 as amended by Notification No. 105/82.

2. Shortly put, the facts of the case are that in Appeal No. 1847/85-D the appellants are manufacturer of P.P. foods falling under T.I. 1-B of CET. They are packing their products in glass jars/bottles and are using 58 mm closures to pack the P.P. foods. They were availing credit under Notification No. 201/79, dated 4-6-1979 in respect of 58 mm closure caps used as cover on Jams, Jellies and Marmalades packed bottles. The said Notification grants set-off of duty paid on T.I. 68 goods when used in the manufacture of any item. With the amendment of the said Notification by No. 105/82, dated 28-2-1982, the set-off was available to those T.I. 68 goods which have been used as "raw material" or component parts in the manufacture of excisable goods. The authorities below have denied the benefit of the Notification observing that "while it is true that manufacture of P. & P. foods becomes complete only by packing them in unit containers and closing them, it does not follow that every element that goes into packing cannot be treated as raw

material or component parts". In appeal No. 1866/85-D the issue is the same but the facts are different i.e. to say in that case the appellants bring into their factory duty paid product called Coproco adhesive falling under T.I. 68 and use the same in fixing the label on the unit containers meant to contain P.P. foods.

3. Arguing on behalf of the appellants, Shri Kapil Vaish, Chartered Accountant, authorised Agent of the appellants submitted that in the case of Collector of Central Excise v. Eastend Paper Industries Ltd. - 1988 (43) E.L.T. 201 the Apex Court in unmistaken words have held that anything that enters into and forms part of manufacturing process or is required to make the article marketable must be deemed to be material or component part of the end-product and must be deemed to have been used in completion or manufacture of the end-product. He also submitted that in the case of M/s. Star Paper Mills v. Collector of Central Excise, 1989 (43) E.L.T. 178 (SC), the Apex Court also held that "Paper cores used for rewinding of paper in rolls entitle to set-off under Notification No. 201/79". When pointed out by the Bench that the decision rendered by this Tribunal in the case of Hindustan Lever Ltd. v. Collector of Central Excise, Bombay, 1985 (19) E.L.T. 96 (which has been referred to in the Impugned Order-in-Appeal) is against the contention of the appellants, Shri Vaish submitted that in view of the authoritative pronouncement of the Apex Court in the aforesaid case the judgment of the Tribunal is no longer a good law.

4. In reply Shri J.N. Nair, learned JDR reiterated the contents of the impugned Order, though he has no comments to offer in view of the said judgment of the Apex Court.

5. We have considered the submissions. From the observations made by the Apex Court in the case of Collector of Central Excise v. Eastend Paper Inds. Ltd., supra it is clear that anything that enters into and form part of manufacture process and is required to make the article marketable must be deemed raw material or component parts of the end-product. It is not in dispute that manufacture of P. & P. foods becomes complete only by packing them in unit containers and closing them. From this itself it follows that the 58 mm caps and Coproco adhesive used by the appellants in fixing the lables on the unit containers mean to contain P. & P.

foods, are raw materials. Thus, following the ratio of the said decision of the Apex Court we set aside the impugned Order and allow these two appeals with consequential relief to the appellants, if any.