Collector of Central Excise Vs. Indian Shaving Products Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-29-1992

Reported in : (1992)(61)ELT747TriDel

Appellant : Collector of Central Excise

Respondent : Indian Shaving Products Ltd.

Judgement :
1. This is an appeal against the order of Collector (Appeals), New Delhi dated 9-3-1990.

2. The learned DR stated that the respondent is engaged in the manufacture of 'Razor Blades', had sought to operate under Rule 57F(2) of Central Excise Rules, 1944, for sending Aluminium Foil sheets to outside job-workers to get the same converted into Tucks (Packets) and bring back the said Tucks for packing their final products i.e. the 'Razor Blades'.

3. He also stated that the Assistant Collector, Central Excise, Jaipur disallowed the permission to operate under Rule 57F(2) by holding that the said aluminium foil sheets did not qualify as 'input' in or in relation to the manufacture of final products, namely, 'Razor Blades'.

4. It was his submission that aluminium sheets were required for manufacture of containers in which blades were kept. Hence they could not be considered as inputs for manufacture of blades and he would in this connection rely on the order

of the Tribunal in the case of Ponds India Limited v. CCE, reported in 1988 (38) E.L.T.351.

5. It was his contention that the Assistant Collector had rightly disallowed the modvat and the learned Collector had erred in accepting the respondent's appeal.

6. The learned counsel for the respondent stated that the aluminium sheets obtained by them are finished sheets which are used as packaging material.

7. He further stated that the nature of the packaging material and the activity carried out on the same by the job worker is as follows :- (a) The packaging material under reference is duty paid aluminium foil sheets classifiable under Chapter Head 76.07 of the tariff. The said aluminium foil sheets are already printed with the brand name of the product, name of the respondent company as well as other particulars of the product including price etc. at the time of purchase (for specimen refer Exhibit A enclosed).

(b) These printed aluminium sheets are then sent to job worker. The only process that is carried out on these sheets by the job worker is to cut the said sheets into several individual cut pieces (for specimen refer Exhibit B enclosed).

(c) The individual cut pieces are then received back from the job worker at our Bhiwadi Factory whereupon they are introduced into the automated equipment which is used for packing of the razor blades.

(d) The packing equipment is fully automatic. In this process as a first step finished razor blades are mechanically packed in waxed paper and thereafter in the printed paper wrapper. The wrapped blades are then gummed together by glue five or ten (as the case may be) of such wrapped razor blades are then stacked together within the individual cut piece of aluminium foil (as cut out by the job worker and specimen in Exhibit B). Thereafter the individual cut piece is folded into a tuck through the machine process and gummed together. This tuck acts as the outer container for the razor blades. Cellophane film is then used to wrap this tuck containing the blades. The set of five or ten blades (as the case may be) so packed in the tuck with cellophane film is the unit of sale.

8. The learned counsel also stated that the case cited by the learned DR is distinguishable as in the case of Ponds India Limited, manufacture of polyjars from LDPE powder was involved whereas in their case they obtain finished sheets and simply send it for job work of cutting under Rule 57F(2). He would also like to state the case of Rasoi Limited, Alipore, Calcutta v. Collector of Central Excise (Appeals), Calcutta, reported in 1990 (49) E.L.T. 522 (Tri.) in which it was held as "tin plates are packaging material for vegetable products and packaging material is different from package or container.

9. The learned DR stated in reply that he would also like to draw attention to Board's instructions F. No. 267/128/87-CX. dated 3-3-1988 and F. No. 267/90/88-CX. 8 dated 6-9-1988 (Circular No. 45/88) under which availability of modvat credit on raw materials used in the manufacture of packaging materials have been clarified. It was observed that Rule 57A allows modvat credit for packaging materials and not on raw materials for making such packaging materials. Packaging materials are ready to use articles such as containers, boxes, cartons and bottles etc. Therefore modvat credit will be admissible on them but not on raw materials such as plastic granules or steel sheets/strips etc.

used for making packaging materials. Raw materials like plas by themselves are not recognisable as packaging materials.

10. The learned counsel sought leave to emphasise that in their case aluminium foil sheets are already printed with the brand name of the product as well as other particulars and process of packing the blades is done in their own factory.

11. We have considered the submissions of both the sides. We find that the learned counsel's submissions have a lot of force. The case of Ponds India Limited cited by the learned DR is distinguishable as pointed out by the learned counsel and the instant case is more similar to that of Rasoi Limited decided by ERB and cited above and it is on the better footing in as much as the aluminium foil sheets are printed with the brand name of the product and name of the respondent company as well as other par ticulars which connect them with the respondent's specific product. Further what is being done in the job work is merely to cut the said sheets into individual cut pieces and the actual packing of the blades is being

done in the appellant's own factory. The fact that during the process of packing the blades the machine folds these aluminium sheets into tucks shows that they are being used as a packaging material and merely because at a particular stage (that is after folding) they are called tucks does not make any material difference to this situation. In the circumstances, the departmental circular cited by the learned DR does not advance the department's cause. Even otherwise it is not binding. That apart the department itself admits that Rule 57A allows modvat credit for packing material.

In the circumstances we hold that the learned Collector (Appeals) was right. Hence we dismiss the appeal.