Collector of Central Excise Vs. Herbal Isolates (P) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-06-1993

Reported in : (1994)(74)ELT929TriDel

Appellant : Collector of Central Excise

Respondent : Herbal Isolates (P) Ltd.

Judgement :
1. Heard both sides. The short issue involved in this appeal is whether Black Pepper Powder is covered by the entry 'Black Pepper' in the Export Tariff and is liable to the levy of export cess of Rs. 5/- per kg. The learned Adjudicating Authority has decided that the term 'Black Pepper' also covered Black Pepper Powder or Ground Black Pepper.

However, the Appellate Authority had accepted the appellants' contention that these were two different commodities.

2. The Department has filed an appeal against the impugned Order-in-Appeal.

3. The learned Senior Advocate Shri Joseph Vellapally cited certificates from various authorities such as of Agmark, India Spices Exporters Forum, Spices Board in support of his contention that the Black Pepper and Black Pepper Powder were two different commodities. 1 4. During the hearing he also cited the recent judgment of the Supreme Court in the case of Rajasthan Roller Flour Mills Association and Anr.

v. State of Rajasthan and Ors. - reported at JT 1993 (5) SC 138 - holding that 'wheat' and 'Flour' 'Maida' and 'Suji' produced therefrom by grinding the wheat are separate commodities.

5. Learned SDR reiterates the findings of the learned Adjudicating Authority.

6. Considered. It is well settled that in interpreting the entries in the tax schedule, it is not the technical meaning of the entry but the meaning given to the same in the commercial parlance is the deciding factor. In view of the certificates of Agmark, Spices Board and of India Spices Exporter Forum etc. it is seen that "Black Pepper" and "Black Pepper Powder" or "Ground Black Pepper" are separate commodities. This view is also supported by the decision of the Supreme Court cited supra.

7. On this view of the matter, the appeal of the Department is rejected.