Printorium Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-14-1996

Reported in : (1996)(88)ELT107TriDel

Appellant : Printorium

Respondent : Collector of Central Excise

Judgement :

1. This appeal is directed against Order-in-Appeal No. GSM/2025/89-AHD, dated 9-10-1989. The issue that falls for determination relates to dutiability or otherwise of printed glas-sine poly-laminated printed paper rolls. Collector (Appeals) held these products to be classifiable under 4811.39 and denied to the appellant the benefit of Notification No. 49/87 as converted paper.

2. Arguing for the appellants, the ld. Advocate submits that they purchase plain glassine poly-laminated paper and subject the same to printing with designs and names of the medicines in the factory. Such product was a converted type of paper and is exempted under Notification No. 49/87-C.E., dated 1-3-1987. He, however, submitted that it is true that originally they claimed classification under Chapter 49. The Collector (Appeals) himself has held that the primary use of such paper is for packing and labelling, and therefore, he ought to have held such type of paper as converted paper. In this connection, he cites the Tribunal's Order in case of Systems Packaging Ltd. v.C.C.E. - 1990 (45) E.L.T. 165. In this order, the Tribunal held that printed waxed paper was a converted type of paper made from duty-paid base paper, and therefore, was eligible to exemption under Notification

No. 49/87-C.E., dated 1-3-1987. Since the paper while essentially retaining the basic features of paper clearly became a converted paper after the process of printing, it ought to have been held as a converted paper, and therefore, benefit of exemption under Notification No. 49/87 ought to have been given 3. Ld. DR arguing on behalf of the Revenue, while forcefully opposing this plea, submits that Collector has rightly held that no such evidence has been placed before him in support of the contention that subjected goods have been notified under Notification No. 49/87.

Notification provides exemption subject to fulfilment of certain conditions like production of pulp outside the factory and the base paper being duty-paid. Since no evidence to sustain their claim to exemption was placed before the Collector (Appeals), he has correctly rejected the plea. The appellants themselves have been changing their stand in regard to classification from time to time. Initially they claimed classification under Chapter 49.01 and how they are accepting the classification, as held by the Collector, under 4811.39 since conditions, subject to which exemption is available, have not been fulfilled to the satisfaction of Collector, he has correctly denied the exemption.

4. We have heard both sides. Notification No. 49/87-C.E., dated 1-3-1987 exempts converted types of paper and paper rolls falling under Chapter 48 of the C.E.T.A. from the whole of excise duty leviable thereon provided that such type of paper or paper rolls have been produced out of the base paper on which appropriate rate of duty of excise or additional duty of customs has already been paid and provided further that such base paper or base paper rolls has not been produced out of pulp within the production of the factory of such paper or paper rolls. This notification also excludes paper or paperboards, cellulose wadding and webs of cellulose fibres, coated, impregnated, covered, surface coloured, surface decorated or printed paper falling under Heading No. 48.09 and 48.10 of the Schedule from the benefit of exemption.

5. We note that explanation to this Notification itself provides that base paper or base paper board used in the manufacture of such type of converted paper shall be deemed to have paid appropriate duty of excise or customs duty, if it is

purchased from the market. The point regarding satisfaction of condition of base paper and being duty-paid, therefore, does not have any force. Further, we note that these conditions to which ld. DR referred to are nowhere in dispute either in the Order-in-Original or in the Appeal. Collector (Appeals) simply did not accept the claim that it was a converted paper on the ground that no literature or evidence was produced. In case of Modern Industrial Corporation v. C.C.E. - 1987 (31) E.L.T. 321 (SC) it was held that if the process is to paste one side of the paper with adhesive material and such adhesive material is mixed to colour or colour is mixed to such adhesive, the process involved will be of printing of colour and merely because such printed paper is subsequently varnished or glazed by chemical or embossed for floking purposes would not make any difference under Notification No. 68/76-C.E. Therefore, the flock paper is entitled to exemption under Notification No. 68/76-C.E. Referring the then existing Notification No. 68/76, dated 16-3-1976 which referred to converted type of paper, the Hon'ble Apex Court after examining the sample, held that the words used in the Notification make it clear that irrespective of the fact that whether or not such paper is subsequently varnished or glazed by chemicals or embossed would be entitled to the benefit of the Notification. In the case of Systems Packaging Ltd. v. C.C.E. - 1990 (45) E.L.T. 165, the Tribunal held that so long as the converted paper is made from the base paper falling under Chapter 48, it would not make any differences whether converted paper is made directly from such base paper or base paper is subjected to certain process. The process of slitting is a process of conversion as understood in the paper industry. The slitted paper in reels manufactured by the appellants fall within the description of converted type of paper for the purpose of Notification No. 49/87-C.E., dated 1-3-1987, and therefore, the goods are eligible to duty exemption.

Since the base paper is subjected to printing and is slit, the ratio of this order squarely covers the case before us.

6. In view of this, we hold that the goods are correctly eligible to exemption under Notification No. 49/87-C.E., dated 1-3-1987.