M/S. Ttk Textiles Ltd. Vs. Cce, Madurai

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SooperKanoon Citation : sooperkanoon.com/943607

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Chennai

Decided On : Dec-03-2009

Judge : The Honourable Ms. Jyoti Balasundaram, Vice President &Amp; the Honourable Dr. Chittaranjan Satapathy, Technical Member

Appeal No. : E/3447 of 1998 & 3448 of 1998

Appellant : M/S. Ttk Textiles Ltd.

Respondent : Cce, Madurai

Advocate for Pet/Ap. : Smt. J. Sree Vidya, Adv., for the appellant. Shri C. Dhanasekaran, SDR, for the respondent.

Judgement :

Per: Jyoti Balasundaram,

The above appeals were initially listed for hearing and disposed off on 12.09.05, vide Final Order No. 1227 and 1228/2005, setting aside the impugned order confirming a demand on waste and scrap of paper arising in the course of manufacturing of paper tubes and cones, in the light of the Tribunal s decision in the case of Wimco Ltd. Vs. CCE 2002 (147) ELT 920 (Tri.-Del.). The Tribunal s order was taken up in appeal by the Revenue before the Apex Court and the Apex Court vide its order dated 13.07.2009, set aside the same and remanded the matter to the Tribunal for better adjudication of the factual aspects. Tribunal s order in Wimco Ltd.(supra) was also taken up by the Revenue before the apex

Court and apex Court vide its order reported in 2007 (217) ELT 3 (S.C.), remitted the case to the Tribunal for fresh consideration as the Tribunal had not dealt with the factual scenario in detail. Post remand, the Wimco case was decided afresh by the Tribunal as seen from 2008 (230) ELT 106 (Tri.-Del.), holding that emergence of scrap, waste and paring from use of duty paid paper and paperboard is not as a result of manufacturing activity, such scrap/waste also cannot be considered as intermediate product or by product during the course of manufacture of any excisable goods and that no new product comes into existence and scrap of paper cannot be considered as a product different from paperboard. The Tribunal also held that merely mentioning in the tariff not sufficient to attract excise levy. In coming to its conclusion, the Tribunal relied upon the apex Court s decision in the case of Kores India Ltd. Vs. CCE 2004 (174) ELT 7 (S.C.).

2. The goods in this case are the same in those in the Wimco case. The DR has not been able to bring to our notice that the Tribunal s order in the case of Wimco Ltd., has been challenged by the Revenue in the apex Court. The ratio of the Wimco Ltd., decision is applicable in all fours, and we follow the same and set aside the impugned order and allow these appeals.