Collr. of Central Excise Vs. Precitex Rubber Components

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-03-1996

Reported in : (1996)(86)ELT500TriDel

Appellant : Collr. of Central Excise

Respondent : Precitex Rubber Components

Judgement :

1. Reverme has filed the present reference application with the request that the following alleged question of law said to have arisen out of Final Order A/1513/95-NB, dated 20-12-1995 be referred to the High Court concerned: Whether BOPP film can be termed as an input for the purpose of Rule 57A in the manufacture of aprons and cots.

2. Arguing on the application Shri S.N. Ojha, JDR submitted that the goods involved in the instant case are BOPP films and the question is as to whether the same could be termed as an input for the purpose of Rule 57A in the manufacture of aprons and cots. He submitted that against the Judgment of the Madhya Pradesh High Court, Indore Bench in M.P. No. 1187/91; dated 2-11-1992 the Department had filed the S.L.P.before the Supreme Court which is still pending for decision. In this premises he submitted that the proposed question be referred to the High Court concerned.

3. Replying to the arguments advanced by the JDR, Shri Mulchand Bhakru, Advocate submitted that no question of-law is involved meriting reference to the

High Court. Elaborating he submitted that this Tribunal relying upon its earlier order reported in 1990 (49) E.L.T.538 has held that BOPP Film/Tape used as separator in the manufacture of aprons and cots is an input and, therefore, the Collector (Appeals) rightly extended the benefit of Modvat to the respondents. He further submitted that mere filing of S.L.P. before the Apex Court cannot be termed as a question of law.

4. Considered. In the facts and circumstances of the case and particularly the nature of the BOPP Film/Tape used as separator in the manufacture of Aprons and Cots this Tribunal has taken the view that these are inputs for the purpose of Modvat. Hence no question of law is involved. That apart, merely because the Revenue had filed the S.L.P.against a particular decision of the Hon'ble Madhya Pradesh High Court as stated by the JDR it cannot be said that the proposed question is a question of law for the purpose of the present case. In view of the above, I reject the application.