Collector of Central Excise Vs. Fine Prints (P) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-25-1996

Reported in : (1996)(87)ELT296TriDel

Appellant : Collector of Central Excise

Respondent : Fine Prints (P) Ltd.

Judgement :

1. The captioned appeal is directed against the order-in-appeal passed by the Collector (Appeals) holding that the classification of the said goods by the Assistant Collector under T.I. 4818.13 is not correct and that the goods are classifiable under T.I. 4818.19.

2. The facts of the case are that the respondents are engaged in the manufacture of paper, paper board and paper board pouches for agarbatti, etc. On examination of the classification list filed by the respondents, the Assistant Collector alleged that paper board pouches manufactured by the respondents herein were classifiable under Chapter sub-heading 4818.13 and not under Chapter sub-heading 4818.19 as claimed by the respondents herein. Accordingly, a show cause notice was issued to the respondents herein asking them to explain as to why the printed paper pouches manufactured by them should not be classified under Tariff Heading 4818.13. The respondents contended that pouches and catch covers manufactured by the respondents herein were correctly classifiable under 4818.19 : that sub-heading 4818.13 speaks of printed cartons; that cartons, boxes and cases are three dimensional and pouches and catch covers are neither

cartons nor boxes nor cases; that a 'case' means a 'chest' e.g. a 'document case' or a 'jewel case'; that pouches and catch covers would appropriately fall under the term 'others'; that catch covers and pouches are not containers or cartons or cases or boxes; that sub-heading 4818.19 is a general description and the goods manufactured and described as pouches and catch covers appropriately shall fall under this heading; that Bombay Central Excise Collectorate also classified these items under Chapter sub-heading 4818.19. After careful consideration of the facts, the Assistant Collector held that pouches and catch covers shall be classifiable under T.I. 4818.13. The learned Collector (Appeals) set aside the order of the Assistant Collector as indicated above.

3. Shri Sanjeev Sachdeva, the learned SDR submitted that the product described as 'pouches and catch covers' are nothing but containers which are printed; that containers and materials come within the scope of the expressions used in of sub-heading 4818.13; that the word 'case' in Oxford Dictionary means "what encloses something", that sheaths are usually two dimensional; that the meaning of the word 'case' covers bag and sheath; that pouches is nothing but a packing case for medicine and agarbatti; that pouches and catch covers are nothing but packing cases for medicine and agarbatti which are printed. The learned SDR submitted that this Tribunal in the case of C.C.E, Bangalore v. India Coated Cartons (P) Ltd. in their Final Order No. 406/95-C, dated 29-11-1995 [reported in 1996 (81) E.L.T. 373 (Tri.)] held that printed catch covers and pouches shall be classifiable under sub-heading 4818.13. He submitted that their case was squarely covered by this decision of the Tribunal.

4. Shri G. Shiv Dass, the learned Advocate for the respondents reiterated the submissions made before the Collector (Appeals) and submitted that their product was correctly classifiable under T.I.4818.19.

5. Heard the submissions of both sides. We find that there are two competing entries in the instant case. The department held that pouches and catch covers are classifiable under Chapter sub-heading 4818.13.

Chapter subheading 4818.13 reads : "Other printed cartons, boxes and cases". The respondents herein have claimed that pouches and catch covers appropriately fall under Chapter sub-heading 4818.19. Chapter sub-heading 4818.19 reads: "Other". We find that classification of the printed catch covers and printed pouches was examined by this Tribunal in the case of C.C.E., Bangalore v. India Coated Cartons (P) Ltd. [reported in 1996 (81) E.L.T. 373 (Tri.)]. In para 4 of their order, the Tribunal had held : "4. We have considered the submissions. In the outset it may be stated that the Final Order No. 816/88-C passed by this Tribunal as aforesaid is a case where the Tribunal was concerned with the exemption Notification No. 66/82-C.E. and in the concluding paragraph it has been observed that the question that was relevant for a decision was whether an article in question can be considered as the printed cartons/boxes and after seeing the sample it was held that the same are not printed cartons/boxes. In the instant case the dispute before us is as to whether the said printed catch cover and pouch are cases or not. The Assistant Collector in his adjudication order after referring the dictionary meaning of the word 'case' given in Chamber's 20th Century that is to say 'a covering cover or box or sheath etc.' held that the printed catch covers and printed pouches which are used for covering packing goods can be called as cases alone because of being printed one under heading 4818.13 and not under 4818.19, since 4818.19 is for unprinted type of item. From the impugned order-in-appeal it appears to us that the Collector (Appeals) has referred H.S.N. for the purpose of holding that the subject goods falls under heading 4818.19 but from the said H.S.N. we find that the group of articles, namely, folded cartons, boxes and cases even includes item such as seed packets with pictures of the product and sowing direction, in addition to the name of the firm, or chocolate or cereal packets with pictures for the amusement of children remain classified in this heading. For ready reference the relevant reference note at "A" appearing below heading 48.19 of HSN pages 685-686 are reproduced herein with advantage : This group covers containers of various kinds and sizes generally used for the packing, transport, storage or sale of merchandise, whether or not also having a decorative value. The heading includes cartons, boxes, cases, bags, cones, packets, sacks, paper board drums (containers), whether manufactured by rolling or by any other method, and whether or not fitted with reinforcing circular bands of other materials, tubular containers for posting documents, protective garment bags, jars, pots and the like (e.g., for milk or cream), whether or not waxed. The heading also covers special purpose paper bags such as bags for vacuum cleaners, bags for travel sickness, and record boxes and sleeves.

- cartons, boxes and cases in the flat in one piece, for assembly by folding and slotting (e.g., cake boxes); and - containers assembled or intended to be assembled by means of glue, staples, etc., on one side only, the construction of the container itself providing the means of forming the other sides, although, where appropriate, additional means of fastening, such as adhesive shape or staples may be used to secure the bottom or lid.

The articles of this group may be printed e.g., with the name of the merchant, directions for use, illustrations. Thus, seed packets with pictures of the products and sowing directions, in addition to the name of the firm, or chocolate or cereal packets with pictures for the amusement of children remain classified in this heading." 6. We find that the facts in the case before us are exactly identical to the facts cited above. We, therefore, see no reason to disagree with the ratio of the judgment of the case cited and relied upon by the appellant. We, therefore, hold that printed pouches and printed catch covers shall be classifiable under Chapter sub-heading 4818.13. In the result, the impugned order is set aside and the appeal is allowed.