Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench : Ahmedabad

REGIONAL BENCH - COURT NO. 3

Excise Appeal No. 175 of 2012

[Arising out of Order-in-Appeal No OIA-CS/116/DMN/NDMN/2011-12 dated 30.11.2011 passed by Commissioner (Appeal) of Central Excise & ST, Daman/ Vapi]

Praksons Graphics Pvt. Limited **.... Appellant**
S No. 57/1,15, Village : Dunetha,
Nr, Bhenslore Checkpost,
Nani Daman, DAMAN,
U T OF DADRA & NAGAR HAVELI.

VERSUS

Commissioner of Central Excise & ST, Daman **.... Respondent**
3RD FLOOR...ADARSH DHAM
BUILDING, VAPI-DAMAN ROAD,
VAPI OPP.VAPI TOWN POLICE
STATION, VAPI
GUJARAT - 396191

APPEARANCE :

Shri Jagdish Surti, Advocate for the Appellant
Shri Gobind Jha, Superintendent (AR) for the Respondent

CORAM: HON'BLE MR. RAMESH NAIR, MEMBER (JUDICIAL)
HON'BLE MR. RAJU, MEMBER (TECHNICAL)

FINAL ORDER NO. A/11043 / 2019

DATE OF HEARING : 27.06.2019
DATE OF DECISION: 27.06.2019

RAMESH NAIR

The issue involved is that the Playing Cards manufactured by the appellant is liable to concessional rate of duty as per Notification No. 2/2011-CE dated 01.03.2011 or normal rate of duty at the rate of 12%.

2. Shri Jagdish Surti, Ld. Counsel appearing for the appellant, at the outset submits that the present appeal is against the Commissioner (Appeals) letter which was issued by the department for paying duty at the normal rate. Further, the department issued a show cause notice for the differential duty. The case has travelled up to Tribunal and this Tribunal vide

order No. A/11200-11201/2014 dated 08.07.2014 held that Play Cards is a sports goods and accordingly entitled for the exemption under Notification No. 2/2011-CE dated 01.03.2011 and demand was set-aside. Against the said decision of the Tribunal, Revenue filed appeal before the Hon'ble Supreme Court which was dismissed on merits. Therefore, the issue stands decided in favour of the appellant.

3. Shri Gobind Jha, Ld. Superintendent (AR) reiterates the findings of the impugned order.

4. Having considered the submissions made by both the sides and perusal of the record, we find that the issue is no more res-integra, as in the appellant's own case the demand of duty has been set-aside. The present appeal is initiated against a letter of department directing the appellant to pay duty at the normal rates. Since the demand itself has been set-aside and the issue is settled by the Hon'ble Supreme Court in the case of *Commissioner vs. Parksons Cartamundi Pvt. Limited – 2015 (320)ELT A102 (SC)*, the impugned order is not sustainable and the same is set-aside. Appeal is allowed.

(Dictated and pronounced in the open court)

(Ramesh Nair)
Member (Judicial)

(Raju)
Member (Technical)

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