

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH**

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REGIONAL BENCH – COURT NO. 1

**Excise Appeal No. 1283 Of 2012**

[Arising out of Order-in-Original No. 02/Ldh/2012dated 17.02.2012 passed by the Commissioner of Central Excise, Ludhiana]

**M/s Mankoo Machine Tolls Pvt. Limited** : **Appellant (s)**  
No.678, Industrial Area-B,  
Ludhiana-141003 (Punjab)

Vs

**The Commissioner of Central Excise,  
Ludhiana** : **Respondent (s)**  
Central Excise House, F- Block,  
Rishi Nagar, Ludhiana,  
Punjab-141001

With

**Excise Appeal No.1284 Of 2012**

[Arising out of Order-in-Original No. 02/Ldh/2012dated 17.02.2012 passed by the Commissioner of Central Excise, Ludhiana]

**Shri Surjit Singh Mankoo, Director** : **Appellant (s)**  
M/s Mankoo Machine Tools Pvt. Limited  
No.678, Industrial Area-B,  
Ludhiana-141003 (Punjab)

Vs

**The Commissioner of Central Excise,  
Ludhiana** : **Respondent (s)**  
Central Excise House, F- Block,  
Rishi Nagar, Ludhiana,  
Punjab-141001

APPEARANCE:

Ms Krati Singh and Mr. Aman Singh, Advocate for the Appellants  
Mr. Aneesh Deewan, Authorised Representative for the Respondent

**CORAM :**

**HON'BLE Mr. S. S. GARG, MEMBER (JUDICIAL)**  
**HON'BLE Mr. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

**FINALORDER Nos.60185-60186/2023**

Date of Hearing:05.07.2023

Date of Decision:07.07.2023

**Per : P.ANJANI KUMAR**

The appellant, M/s Mankoo Machine was engaged in the manufacture of power process falling under Chapter 84 of CETA, 1985. The appellant was affixing the label and logo of "Mankoo" on the machines manufactured by them. On an investigation conducted by DGCEI, Department registered a case that the appellant was not eligible for the SSI exemption as contained in Notification No. 08/2003-CE dated 01.03.2003 as they were alleged to have been using the brand which is not their own. The show cause notice was confirmed vide order dated 17.02.2012 along with fines and penalties on the company as well as the Director. Hence, these appeals.

2. Ms. Krati Singh, assisted by Mr. Aman Singh, learned Counsel for the appellants submits that Mankoo family headed by Sardar Bagh Singh have started "Mankoo Industries" in 1954. Shri Bagh Singh had three sons, one being Shri Surjit Singh Mankoo, the Director of the appellant. In 1970-71, Mrs. Pritam Kaur and Mrs. Krishan Kumar, wives of the deceased brothers of Shri Surjit Singh Mankoo were made partners of the company. After the demise of the founder Shri Bagh Singh Mankoo in 1981, the "Mankoo Industries" was dissolved and three separate entities were created as under:

- (a) "Mankoo Machine Tools" (the appellant)
- (b) "Mankoo International Limited" (MIL) (Mrs. Pritam Kaur)
- (c) "Mankoo India" (MI) (Mrs. Krishan Kumari)

In 1995, "Mankoo Machine Tools" was constituted as a Private Limited Company with Shri Surjit Singh and Mrs. Kushalya Singh as Directors. The appellant applied for registration of the trade mark "Mankoo Machine Pvt. Ltd. Power Presses Mark" was made before the authorities under the Trade and Merchandise Marks Act, 1958; the registration, however, is yet to be granted. M/s Mankoo International Limited applied for registration of the trade mark of "Mankoo" on 06.07.2004 and has obtained the same.

3. Learned Counsel for the appellants submits that the Department has registered a case against "Mankoo India Pvt. Limited" (the third company as listed above) alleging that they have wrongfully utilized the brand name of "Mankoo" registered in the name of "Mankoo International Limited" and thus are not eligible for SSI exemption. The Adjudicating Authority dropped the demand and, on an appeal, filed by the Department, this Bench has held that SSI exemption cannot be denied on usage of surname of family. She submits that in view of the above, the issue is no longer *res integra* having been decided in their favour. She further submits that the Department was well aware of the usage of such brand by the appellant as they were manufacturing from 1995 and have been also regularly exporting and therefore, extended period cannot be invoked. She further pleads that there was nothing mala fide alleged or evidenced on the part of the Director and therefore, no penalty can be imposed on the Director, Shri Surjit Singh Mankoo.

4. Shri Aneesh Deewan, learned Authorized Representative appearing for the Department reiterates the findings of the OIO and relies on the following cases:

- *CC Vs Rukmani Pakkwell Traders- 2004 (165) ELT 481 (SC).*
- *CC Vs Mahaan Dairies- 2004 (166) ELT 23 (SC).*
- *CC Vs Bhalla Enterprises- 2004 (173) ELT 225 (SC).*

5. Heard both sides and perused the records of the case. We find that the terms "Brand Name" or "Trade Name" are explained under Notification No.08/2003-CE dated 01.03.2003 stating:

*(A) "brand name" or "trade name" means a brand name or a trade name, whether registered or not, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person;*

6. A plain reading of the above indicates that the "brand name" may or may not be registered and that it should indicate a connection between the owner and the product in course of the trade. In the instant case, the brand "Mankoo" is understandably a family surname which is affixed to their products. The family business started in 1971. Even after the three companies formed in 1981 after the demise of the founder, all the companies have been using the same brand name albeit with some negligible differences. There was no complaint, whatsoever, by the so-called registered owner of the brand i.e. "Mankoo International Limited" against the other two companies for

using the said brand. Understandably, the families understand that the brand belongs to the family and not to any individual.

7. We also find that the issue is no longer *res integra* as submitted by the leaned Counsel for the appellants as this Bench has decided the issue in their own family group case on the use of same brand. We find that this Bench relied upon the decision by the Hon'ble Apex Court in the case of *Pethe Brake Motors Pvt. Ltd.- 2015 (319) ELT 575 (SC)* where in the Apex Court has observed that the respondent/assessee therein was not using the brand name of another person and the name used was the surname of the Director of the assessee viz. Pethe and therefore, such usage does not come under the exceptions for availment of benefit of SSI exemption. We find that the case laws relied upon by the Department are not applicable as the facts of the cases are different.

8. In view of the above, Appeal No. 1283 of 2012 and Appeal No. 1284 of 2012 are allowed.

*(Pronounced in the open Court on 07.07.2023)*

**(S. S. GARG)**  
MEMBER (JUDICIAL)

**(P. ANJANI KUMAR)**  
MEMBER (TECHNICAL)