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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/521 /2004 - EX[DB]

Date 17/09/2009

Assistant Registrar
C.E.S.T.A.T., New Delhi

To :
PRAGATI SILICONES PVT.TLD.
11-E,INDUSTRIAL AREA,YAMUNA NAGAR

PRAGATI SILICONES PVT.TLD.

C.C.E. PANCHKULA

I am directed to transmit herewith a certified copy of **Final order No. 683**

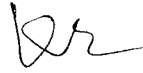
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

Appellant

Vs

Respondent

2009 EX[DB] dated 09-9-09


Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent

C.C.E. PANCHKULA

SCO NO. 407 AND 408, SECTOR 8, PANCHKULA (HARYANA) 134119.

2. Adv. / Consult

*SH. B.L. NARSIMHAN, ADV.,
B-6/10, S. J. ENCLAVE,
N^O DELHI-29*

3 C.D.R

4 J.C.D.R.

5 Bar association, CESTAT, New Delhi

6 Director Publications, Customs, Excise, I.P. Estate, New Delhi

7 M/s Centax Publications Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3

8 Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar, Chennai -17

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10 M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)

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12 Taxindiaonline.com Pvt Ltd, B-XI/8183, Vasant Kunj, New Delhi - 110070

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18. HON'BLE PRESIDENT.


Assistant Registrar
(Excise Appeal Branch)

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH - COURT NO. 1

Excise Appeal No. 521 of 2004

(Arising out of Order-in-Appeal No. 560/AKG/PCK/2003 dated 29.10.2003
passed by the Commissioner of Central Excise (Appeals), Gurgaon).

DATE OF HEARING : 09.09.2009
DATE OF DECISION : 09.09.2009

FOR APPROVAL AND SIGNATURE :

HON'BLE MR. JUSTICE R.M.S. KHANDEPARKAR, PRESIDENT
HON'BLE MR. M. VEERAIYAN, MEMBER (TECHNICAL)

1.	Whether Press Reporters may be allowed to see the order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982 ?	<i>Yes</i>
2.	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not ?	<i>Yes</i>
3.	Whether their Lordships wish to see the fair copy of the Order ?	<i>Yes</i>
4.	Whether Order is to be circulated to the Departmental Authorities?	<i>Yes</i>

M/s Pragati Silicones Pvt. Ltd.

....

Appellants

(Rep by Sh. B.L. Narsimhan, Adv.)

VERSUS

CCE, Panchkula

....

Respondent

(Rep. by Sh. B.L. Soni, DR)

CORAM : HON'BLE MR. JUSTICE RMS KHANDEPARKAR, PRESIDENT
HON'BLE MR. M. VEERAIYAN, MEMBER (TECHNICAL)

FINAL ORAL ORDER NO. 683 / 09 - EX

PER JUSTICE R.M.S. KHANDEPARKAR :

Heard the learned advocate for the appellants and learned DR for the respondent.

2. This appeal arises from the order dated 29.10.2003 passed by the Commissioner (Appeals), Gurgaon. By the impugned order, the Commissioner (Appeals) had confirmed the order passed by the original authority, namely, Deputy Commissioner, Ambala, dated 22.10.2001.

3. The appellants are engaged in the manufacture of name plates, labels, emblems and logos made up of plastic material. The appellants claimed classification under Chapter sub-heading 87.08 and 87.14 of the Tariff as accessories for exclusive use in motor vehicles and scooters and mopeds respectively. The original authority classified the items under Chapter sub-heading 3926.90 on the basis of the decision passed by this Tribunal in the appellants' own case vide Final Order no. 239/2001-B dated 30.04.2001.

4. This appeal came up for hearing on 05.01.2006, referring to the said decision dated 30.04.2001 reported in 2001 (131) ELT 704, the Tribunal confirmed the classification under Chapter sub-heading 39.26, as claimed by the Department. However, it also granted exemption relying upon the decision in the matter of **N.M. Nagpal (P) Ltd. vs CCE**, 2001 (130) ELT 359. Aggrieved by the confirmation of the classification, as claimed by the Department, the assessee filed

appeal before the Apex Court. Simultaneously, the Department also approached the Apex Court as regards the grant of exemption. Both the appeals came to be disposed of by the Apex Court under order dated 25th March, 2009. The Apex Court set aside the order dated 05.01.2006 and remanded the matter for fresh consideration while observing that the same should be in accordance with the decision passed by the Apex Court in the matter of **Pragati Silicon Pvt. Ltd. vs Commissioner of Central Excise, Delhi**, 2007 (211) ELT 534 (SC).

5. The issue involved in the matter in hand is, whether the name plates, labels, emblems and logos made from plastic for the use on the motor vehicles, motor cycles, scooters and mopeds etc. are classifiable under Chapter sub-heading 87.08 and 87.14 of the Schedule to the Central Excise Tariff Act, 1985 as parts or accessories of the motor vehicles or motor cycles, as claimed by the appellants or under Chapter sub-heading 3926.90 as other articles of the plastics, as claimed by the Department.

6. Though in terms of the earlier decision in the appellants' own case itself, the Tribunal has opined in favour of the classification, as claimed by the Department, the said view no more stands to be the correct view as per the decision of the Apex Court in the appellants' own case reported in 2007 (211) ELT 534.

7. While dealing with the above issue, the Apex Court after taking into consideration its earlier decision in **Annapurna Carbon**

Industries Co. vs State of Andhra Pradesh, 1976 (2) SCC 273, **Mehra Bros. vs Joint Commercial Officer**, 1991 (1) SCC 514, **Union Carbide India Ltd. vs State of Andhra Pradesh**, 1995 Supp. (2) SCC 267, and **Commissioner of Central Excise, Delhi vs Allied Air-conditioners Corp. (Regd.)**, (2006) 7 SCC 735, held as under :

"21. It is evident therefore, that an 'accessory' by its very definition is something supplementary or subordinate in nature and need not be essential for the actual functioning of the product. Applying the test laid down in *Mehra Bros.* case (supra), it cannot be denied that name plates add to the convenient use of the motor vehicle. Name plates serve a very useful purpose inasmuch as it gives an identity to the vehicle. Each vehicle comes with different brand name and in different models having distinct features. The manufacturers of different type of models of vehicles market them under a name and the vehicles are recognized and referred to by the name plate affixed on them. Name plates convey to the consumers the distinct features it carries. Undoubtedly they add effectiveness and value to the vehicle and are at the very least accessories of the vehicle. Thus, even if there was any difficulty in the inclusion of the plastic name plates as 'parts' of the motor vehicles, they would most certainly have been covered by the broader term 'accessory'. In this view of the matter, we are of the opinion that the Tribunal has erroneously come to the conclusion that 'plastic name plates' are not 'parts and accessories' of motor vehicles for the purposes of headings 87.08 and 87.14."

8. Consequently, the issue for consideration stands concluded by the above decision of the Apex Court whereby the products in question manufactured by the appellants has been held as parts and accessories and, therefore, classifiable under Chapter sub-heading 87.08 and 87.14. The impugned order, therefore, cannot be sustained and both the orders passed by the lower authorities are liable to be set aside and the classification is to be confirmed in relation to the product in question as claimed by the appellants. Ordered accordingly.

9. In view of acceptance of the case regarding classification of the product in question as claimed by the appellants, the question of granting exemption under Notification No. 05/98-CE in accordance with the decision of the Tribunal in the case of **N.M. Nagpal (P) Ltd.** (supra), does not arise.

10. The appeal is accordingly allowed in the above terms with consequential relief and stands disposed of.

(JUSTICE R.M.S. KHANDEPARKAR)
PRESIDENT

(M. VEERAIYAN)
MEMBER (TECHNICAL)