IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. III

DATE OF HEARING : 07/02/2017.
DATE OF DECISION : 07/02/2017.

Excise Appeal No. 17 of 2011

[Arising out of the Order-in-Appeal No. 574/CE/D-II/2010 dated 04/10/2010 passed by The Principal Commissioner (Appeals), Customs, Central Excise & Service Tax, Delhi – II, New Delhi.]

M/s Decorpac India Pvt. Ltd. Appellant

Versus

CCE, Delhi – II Respondent

Appearance

Shri B.L. Narsimhan, Advocate – for the appellant.

Shri H.C. Saini, Authorized Representative (DR) – for the Respondent.

CORAM: **Hon'ble Shri S.K. Mohanty, Member (Judicial)**
Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order No. 50782/2017 Dated : 07/02/2017

Per. B. Ravichandran :-

The appeal is against order dated 04/10/2010 of Commissioner (Appeals), Delhi – II. The appellants are engaged in the manufacture of various printed paper products as well as printed polyester labels. The dispute in the present appeal is relating to correct classification of these products. The various printed paper products like inserts, Headers, Tags, Labels, Stickers, Envelopes, Belly bands, PVC bags, Stiffeners etc. manufactured by the appellant was sought to be classified under CETH 48211020 by the Revenue as paper or paper board labels of all kinds, whether or not printed. The appellants claim classification under CETH 49111030 as printed inlay cards coming under Heading – "other printed matter, including printed pictures and photographs". Though there is mentioned about classification of textile labels, there is no specific finding or ruling regarding their classification. Both the parties agreed that the same will be classifiable under CETH 5807.

2. Learned Counsel appearing for the appellant submitted that the original order was passed without considering the submissions made by the appellant. On further appeal, the learned Commissioner (Appeals) in the impugned order held that the printed paper products manufactured by them are liable to be classified under 4821, as mentioned above. It is submitted that no detailed examination on the grounds made by the appellant has been done in the impugned order. The scope of classification of their product either under Chapter 48 or under 49 with reference to applicable Chapter Note and HSN explanation has not been done, as brought for by the appellant. He further submitted that the printed paper products manufactured by them are of so many verities. Some are simply placed alongwith the goods marketed by the clients. In other cases, these products are attached by string or by other means with the product. In general

all these paper products named as inlays or as labels contained printed details of the nature of product, the manufacturer, picture, price etc. These are specific to the product for which these labels/inlays are ultimately sold to the consumer. The learned Counsel admitted that all these printed products cannot be put under one single category and necessarily the nature and type of each of them are to be examined for a proper classification either under Chapter 48 or under 49. The impugned order did not do justice to the submissions made by the appellant for due examination of all applicable provisions. The learned Counsel further submitted that irrespective of classification of the product, admittedly they have cleared most of these products for exporters to be exported alongwith merchandise. In terms of Board Circular dated 25/07/2002 the appellants are eligible for exemption as the products are ultimately cleared for export. Incidentally, learned Counsel also mentions that there is a unrelated findings in the impugned order for denial of an amount of Rs. 5,01,058/- towards ineligible Cenvat credit availed by the appellant. It is not known as to which amount being sought to be denied as no allegation has been made in the show cause notice, neither there is a finding in the original order with reference to any Cenvat credit.

3. The learned AR submitted that the nature of product manufactured by the appellant are to be examined with reference to Note 12 of Chapter 48 and also the explanation given under Heading 4821 in the HSN. Paper and paper board labels of a kind

used for a attachment to any article for the purpose of indicating its nature, ownership, price etc. will necessarily fall under Heading 4821.

4. We have heard both the sides and perused the appeal records. The impugned order is very cryptic and did not examine all legal provisions, more specifically chapter notes and HSN explanation alongwith nature of product manufactured by the appellant. In fact, in para 8 of the impugned order the claim of the appellant was not accepted only on the ground that inlay cards are not mentioned in the chapter heading. We find such reasoning is unjustified and not relevant to arrive at the correct classification. The impugned order has not given any detailed finding on any of the points raised by appellant to arrive at the correct classification of the products. We note that the issue involved in the present appeal relates to three set of items which will have different scope for classification :

(a) printed paper and paper boards which are simply used as inlays or inserts, not covering by the scope of definition of labels as explained in the HSN note under heading 4821 ;

(b) paper and paper board labels which are specifically intended for attachment with the product either by string or by other methods and

(c) printed labels of polyester fabric which admittedly falls under heading 5807.

5. The scope of classification under these three categories are to be specifically examined for a clear finding by the Jurisdictional officer. We have perused the samples submitted by the appellant. The same are to be examined by the Original Authority alongwith the submissions made by the appellant for a proper finding. Further, the claim of the appellant for exemption with reference to products cleared to exporters and who ultimately exported these goods with merchandise out of country, has to be examined for a finding. The reference to denial of Cenvat credit is without any basis or reasons and accordingly the same is set aside.

6. In view of the above discussion and finding, we set aside the impugned order and remand the matter to the Original Authority to examine and decide the issue of classification all the type of products listed above. Specific finding regarding the eligibility of appellant for exemption claimed is also to be recorded. The appellant shall be given opportunity to submit their side of the case. The appeal is allowed by way of remand.

(Order dictated and pronounced in open court.)

(S.K. Mohanty)
Member (Judicial)

(B. Ravichandran)
Member (Technical)

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