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

Date of Hearing/Decision: 7.3.2017

Appeal No. E/36/2011-DB

(Arising out of Order-in-Appeal No. 600-601/CE/DLH/2010 dated 15.10.2010 passed by the Commissioner (Appeals), Central Excise, New Delhi)

CCE, Delhi-II Appellant

Vs.

M/s Praveen Print-O-Pack Pvt. Ltd. Respondent

Appearance

Shri Santosh Kumar, Advocate - for the appellant

Shri G.R. Singh, D.R. - for the respondent

CORAM:**Hon'ble Mr. Justice (Dr.) Satish Chandra, President**
Hon'ble Mr. Ashok K. Arya, Member (Technical)

Final Order No. 52228/2017

Per Justice Dr. Satish Chandra:

The present appeal is filed by the department against the Order-in-Appeal No. 600-601/2010 dated 15.10.2010

2. The brief facts of the case are that the appellant during the period under consideration (April 2007 to 28.12.2009) was engaged in the manufacture of paper Tags, Stickers, Insert Cards, Labels etc. on which they were paying Central Excise duty but on clearances of goods declared by them as Inlay Cards, they were not paying duty. So, the department has demanded the duty of Rs.5,83,673/- along

with interest and penalty. Being aggrieved, the appellant has filed the appeal before the Commissioner (Appeals) who has granted the relief. Not being satisfied, the department has filed the present appeal.

3. With this background, we have heard Shri Santosh Kr., ld. Advocate for the appellant and Shri G.R. Singh, ld. D.R.

4. After hearing both the parties and on perusal of record, it appears that the identical issue has come up before the Tribunal in Appeal No. 17/2011 in the case of ***M/s Decorpac India Pvt. Ltd., CCE, Delhi-I,*** .where the matter was remanded back to the adjudicating authority to examine and decide the issue of classification of old type of products by observing that :

> "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 along with 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 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:
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> (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 fall 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 along with 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 of 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."

5. By following the ratio laid down by the Tribunal (supra), we also remand the matter to the original authority with the same direction.

6. In the result, the appeal filed by the department is allowed by way of remand.

(Dictated & pronounced in open Court)

(Ashok K. Arya) (Justice Dr. Satish Chandra)
Member (Technical) President

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