CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. 1

Date of hearing/decision: 18.04.2017

Excise Appeal Nos. 631 of 2008
(Arising out of order-in-appeal No. 149-CE/MRT-II/2007 dated 26.07.2007 passed by the Commissioner (Appeals), Customs & Central Excise, Meerut-II)

M/s Century Pulp & Paper   Appellant

Vs.

CCE, Meerut-II   Respondent

Appearance:

Sh. Ashish Vaish, Advocate for the appellant
Sh. M. R. Sharma, AR for the Revenue

Coram:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Final Order No. 52973/ 2017

Per: Justice (Dr.) Satish Chandra:

The present appeal is filed against the order-in-appeal No. 149-CE/MRT-II/2007 dated 26.07.2007 passed by the Commissioner (Appeals), Customs & Central Excise, Meerut-II.

2. Brief facts of the case are that, during the period under consideration (2001-2002 to 2005-06), the appellant was engaged in the manufacture of uncoated paper in rolls and sheets of a kind used for writing, printing etc. falling under sub-heading No. 4804.90 & uncoated kraft paper in rolls and sheets falling under sub-heading No. 4804.90 respectively of the Schedule to

the Central Excise Tariff Act, 1985. The appellant have purchased the 'core pipe' as input for re-reeling of their final product i.e. writing and printing papers on which the appellant has availed the cenvat credit. After full use of 'core pipe' became obsolete and appellant sold it as a scrap. The department has demanded the duty on the scrap core pipe. Being aggrieved, the present appeal is filed by the appellant.

3. With this background, we heard Shri Ashish Vaish, ld. Advocate for the appellant and Shri M. R. Sharma, ld. AR for the Revenue.

4. After hearing both sides and on perusal of record, it appears that the identical issue has come up before the Tribunal in the case of ***WIMCO Ltd. vs. CCE, Lucknow – 2008 (230) ELT 106 (Tri. Del.***), where it was observed that-

> "7.1 *In the present case, we find that the appellant has purchased duty paid paper and paperboard from the market. They are not the manufacturer of paper and paperboard and they are merely consumers of paper and paperboard. When they used such paper and paperboard for manufacture of empty boxes, some quantity of waste, scrap and parings of paper and paperboard has arisen. They had no intention to manufacture of scrap waste or paring. The intention is to minimize/ avoid the wastage and not to produce the same. These scrap/ waste/paring also cannot be considered as intermediate product or by-product during the course of manufacture of any excisable goods. No new product has come into existence. The scrap of paper cannot be considered as a product different from the paper; the waste arising out of paperboard is not a product different from paperboard. We also do not find any special definition rendering*

emergence of such waste, scrap, paring as amounting to manufacture. Mere mentioning in the tariff is not sufficient to attract excise duty".

5. During the course of argument, ld. Advocate for the appellant has informed that the above order was uphold by the Hon'ble Supreme Court vide order dated 06.07.1009 (Dy. No. 6564/2009).

6. By following our earlier order (supra), we find no reason to sustain the impugned order and the same is hereby set-aside.

7. In the result, appeal filed by the appellant is allowed.

(Dictated and pronounced in the open Court).

(V. Padmanabhan)
Member (Technical)

(Justice (Dr.) Satish Chandra)
President

Pant