CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing: 18.04.2017
Date of Pronouncement: 19.05.2017

Cross Application No. E/CO/135/2010
Appeal No. E/1137/2010-EX[DB]

[Arising out of the Order-in-Appeal No. 49/CE/D-II/2010 dated 16.02.2010, passed by the Commissioner of Central Excise, New Delhi]

CCE Delhi-II … Appellant

Vs.

M/s. Frontier (Elec) Press ... Respondent

Appearance:

Present Shri M.R. Sharma, DR for the appellant
Present Shri R.K. Philips, Advocate for the respondent

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

FINAL ORDER No. 53388/2017

Per V. Padmanabhan:

This appeal is filed by revenue against the order in appeal number 49/2010 dated 16.02.2010. The respondent is having a printing press and are engaged in the activity of printing of various articles of paper or paperboards. One of their products is 'Printed Chromo Art Paper Rolls' which is obtained by printing upon the Chromo Art Paper Rolls purchased from the market. The respondent was clearing the said product without payment of Central excise duty, classifying the same under 49119990. During the course of the audit it was noticed that the said product is covered under 'Printing &

Wrapping Paper and is correctly classifiable under 48239013 attracting Central excise duty @16% from August 2006 to February 2008 and at the rate of 14% thereafter. Accordingly, a show cause notice was issued proposing recovery of Central excise duty of Rs. 6,94,154/- for the period 2006-07 and 2007-08. The adjudicating authority confirmed the said demand. However, when the issue was carried in appeal to the 1st appellate authority, the duty demand was set aside. Aggrieved by the impugned order, revenue has filed the present appeal.

2. With the above background we heard Sh. M.R. Sharma, DR for the Revenue and Sh. R.K. Philips, Advocate on behalf of the respondent.

3. The issue in this case is the determination of classification of 'Printed Chromo Art Paper Rolls'. The product is being supplied in the form of printed sheet to M/s Eveready Industries Limited. The item is used for packing and wrapping the battery cell. In retail shops, the pencil cells are bubble packed and the printed paper remains on the back side of the product in question. It is to be noted that the primary function of the said product is packing the battery cells and printing thereon is merely incidental to the primary use of the product. For determining the classification, it is necessary to consider note 12 to chapter 48 which is reproduced below:

"Except for the goods of heading 4814 or 4821, paper, paper board, cellulose wadding and articles thereof, printed with motives, characters or pictorial representations, which are not merely incidental to the primary use of the goods, fall in chapter 49."

4. Having noted the fact that printing is merely incidental to the primary use of the goods i.e., packing of cells, in the light of the above chapter note 12, it is evident that the goods are not liable for

classification in chapter 49, but will remain classified in chapter 48 only.

5. From the various entries in chapter 48, we note that the subheading 4810 13 30 covers specifically Chromo Paper Rolls. The respondent is reported to be procuring Chromo Art Paper Rolls and undertaking the process of printing on such paper. Since printing on the paper is purely incidental to its main use we are of the view that the classification of the printed paper Rolls will also remain within the same chapter subheading as above.

6. The only question that remains to be answered to decide duty liability is whether the printing undertaken on the paper amounts to a process of manufacture in terms of section 2(f). It is easily seen that no distinct, identifiable commodity emerges out of the process of printing undertaken by the respondent. The Chromo Art Paper Rolls remain the same albeit with printing. Hence, in our opinion no new commodity emerges and hence there is no justification to charge Central excise duty on the printed paper Rolls.

7. In view of the above discussions, we find no reasons to interfere with the impugned order. Consequently, the appeal filed by revenue is rejected.

[Order Pronounced in the open court on 19.05.2017]

(Justice Dr. Satish Chandra) President	(V. Padmanabhan) Technical Member

Bhanu