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

Date of hearing/decision: 23.10. 2017

Ex. Appeal No. 51621 of 2016

(Arising out of order-in-original No. JOD-EXCUS-000-COM-32-15-16 dated 18.02.2016 passed by the Commissioner, Central Excise, Jaipur).

M/s Permanand & Sons Appellant

Vs.

CCE, Jodhpur Respondent

Appearance:

None for the assessee
Sh. S. K. Bansal, AR for the Revenue

Coram:

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

Final Order No. 57432/2017

Per: **Mr. Justice (Dr.) Satish Chandra**:

The present appeal is filed against the order-in-original No. JOD-EXCUS-000-COM-32-15-16 dated 18.02.2016 passed by the Commissioner, Central Excise, Jaipur. In the present appeal, the disputed period is 01.04.2012 to 28.02.2013, where the excise duty was demand by the department on henna powder and paste. Being aggrieved, the present appal is filed by the appellant.

2. List revised. None present on behalf of the appellant nor any adjournment application is available on record. In the absence of ld. advocate for the appellant we heard Sh. S. K. Bansal, ld. AR for the department.

3. From the record, it appears that the identical issue (henna powder) has come up earlier before the Tribunal in the case of ***Sajan Kumar Heerani, Partner and others (Final Order No. A/53554-53574/2017-EX (DB) dt. 17.05.2017)*** wherein it was observed that-

> *"5. In view of the above referred Notification, the appellant is not required to pay any Central Excise duty on manufacture of Henna Powder and Paste. Therefore, the Central Excise duty confirmed by the Department in the impugned orders is liable to be set aside. On perusal of the notification dated 24.04.2017, we find that no classification has been furnished by the Central Government with regard to the goods in question i.e. whether it should be classified under Chapter 33 as claimed by the Department, as against the claim of the appellants under Chapter 14 ibid. Thus, we are not expressing any opinion with regard to the classification of the disputed goods at this juncture.*
>
> *6. Therefore, the impugned orders are set aside and the appeals are allowed to the extent of the adjudged demands confirmed therein".*

4. In view of the above, we set aside the impugned order and allow the appeal.

(Dictated and pronounced in the open Court).

(V. Padmanabhan)
Member (Technical)

(Justice (Dr.) Satish Chandra)
President

Pant