CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Excise Appeal No. 347 of 2008

(Arising out of Order-in-Appeal No. 268-CE/MRT-II/2007 dated 19.12.2007 passed by the Commissioner of Customs & Central Excise (Appeals), Meerut-II)

DATE OF HEARING : 08.12.2017
DATE OF DECISION : 08.12.2017

M/s Century Pulp & Paper …. Appellants
(Rep by Sh. Ashish Bansal, Adv.)

VERSUS

CCE, Meerut-II …. Respondent
(Rep. by Sh. H.C. Saini, DR)

CORAM : HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE MR. B. RAVICHANDRAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 58433/2017

PER JUSTICE (Dr.) SATISH CHANDRA :

The present appeal is filed by the assessee-Appellants against the Order-in-Appeal No. 268-CE/MRT-II/2007 dated 19.12.2007 passed by the Commissioner of Customs & Central Excise (Appeals), Meerut-II.

2. The brief facts of the case are that, the assessee-Appellants are 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 and 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. They have purchased the ‘core pipe’ as input for re-reeling of their final product i.e. writing and printing papers on which the assessee-Appellants have availed the cenvat credit. After full use of ‘core pipe’, it became obsolete and assessee-Appellants 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 assessee-Appellants.

3. With this background, we have heard Shri Ashish Bansal, learned counsel for the assessee-Appellants and Shri H.C. Saini, learned DR for the Revenue.

4. After hearing both sides and on perusal of record, it appears that an identical issue has come up before the Tribunal in the assessee-Appellants own case for the earlier period [Final Order No. 52973/2017 dated 18.04.2017], where it was observed that-

> **“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-**
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> > **“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."

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

6. In the result, the appeal filed by the assessee-Appellants is allowed.

(Dictated & pronounced in the open court)

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(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

(JUSTICE (Dr.) SATISH CHANDRA)
PRESIDENT

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