

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing/Decision:19.12.2018

Excise Appeal No.53480/2018

[Arising out of Order-in-Appeal No.155(AK)CE/JPR/2018 dated 25.06.2018
passed by the Commissioner (Appeals), Central Excise & CGST,NCRB, Jaipur]

M/s.Prem Mehandi Centre

Appellant

Vs.

CCE, Jaipur

Respondent

Appearance:

Shri Rupesh Kumar, Shri Jitin Singhal & Shri Pravesh Bahuguna, Advocates for
the appellant.

Shri S.K. Bansal, DR for the respondent.

**Coram: Hon'ble Shri Anil Choudhary, Member (Judicial)
Hon'ble Shri Bijay Kumar, Member (Technical)**

Final Order No. 53529/2018

Per Anil Choudhary :

The appellant in this appeal is aggrieved by order dated 25.06.2018 of
Commissioner (Appeals) , Central Excise & CGST, NCRB, Jaipur.

2. The appellant is engaged in the manufacture of henna powder and heena
paste in cone falling under Chapter 33 of the Central Excise Tariff. For the period
1.3.2013 to 30.06.2013, the appellant did not pay central excise duty on heena
powder & heena paste cleared by them. They have claimed exemption in terms of
Sl.No.134 of the Notification No.12/2013-CE dated 1.3.2013. The said entry states
that heena powder or paste, "not mixed with any other ingredient" falling under

Chapter 33 are liable to nil rate of duty. By the said impugned order, the benefit of the said exemption was not allowed to the appellant.

3. After hearing the Id. Counsel for the appellant and Id. AR for Revenue, we note that the said entry under notification is very clear with reference to henna paste. The only condition is that the said paste should not have been mixed with any other ingredients. The scope of the said entry was clarified by the Board vide letter dated 10.07.2014. The Board clarified as below:-

“Doubts have been raised regarding the scope of the exemption from excise duty available for heena powder or paste under Sl.No.134 of notification 12/2012-Central Excise dated 17th March, 2012 in the context of the phrase “not mixed with any other ingredient”. It is clarified that the exemption is available to heena powder mixed with a liquid, so far that the liquid is a medium to change the form of heena powder into paste but excludes products like heena dye and such other products which are cosmetics.”

4. Ld. AR submitted that henna paste containing other ingredients is not covered by the said exemption.

5. Ld. Counsel countered the same stating that henna paste is mixed with clove oil mainly, to give longevity and preservation of the henna for later use, after many days. This is required for marketing the product. As such, no other ingredients useable is added in the henna powder to make the henna paste.

6. We note that the objection of the Revenue, that no other ingredients should have been added to claim the exemption, is correct. However, the facts of the

present case did not reveal that any other ingredients at all has been added in making the henna paste. Admittedly, the clove oil is a liquid used to make henna paste from powder and make it marketable as such paste in cones. We note that the said process is for making the paste marketable/useable much later by the customers. There is no addition of any active ingredients to heena powder to make the heena paste other than the said oil or liquid. Based on the clarification issued by the Board cited above and the materials on record, the impugned order is set aside and the appeal is allowed with consequential relief, if any.

[order dictated & pronounced in open court]

(Anil Choudhary)
Member (Judicial)

(Bijay Kumar)
Member (Technical)

Ckp