

**IN THE CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI**

APPEAL NOS: E/2067 & 2068/2010

[Arising out of Order-in-Appeal No: SB(92-93)92-93/MW/2010 dated 27/08/2010 passed by the Commissioner of Central Excise (Appeals), Mumbai Zone – I.]

Ridhi Creation
Jayant Mehta

...Appellants

versus

Commissioner of Central Excise
Mumbai – V

...Respondent

Appearance:

Shri LV Pai, Consultant for appellant

Shri M R Melvin, Superintendent (AR) for the respondent

CORAM:

Hon'ble Shri S K Mohanty, Member (Judicial)

Hon'ble Shri C J Mathew, Member (Technical)

Date of hearing: 09/08/2018

Date of decision: 09/08/2018

ORDER NO: A/ 87092-87093/2018

Per: S K Mohanty

Both these appeals are directed against the impugned order dated 27/08/2010 passed by the Commissioner of Central Excise

(Appeals), Mumbai. Denial of SSI exemption under Notification No. 8/2003-CE dated 01/03/2003 in respect of labels/stickers falling under Chapter sub-heading No. 8421 1020/90 of the Central Excise Tariff Act, 1985 is the subject matter of the present dispute. Learned Commissioner (Appeals) has upheld the adjudged demand confirmed on the appellants, holding that Notification No. 24/09-CE(NT) dated 21/10/2009 grants exemption only to packing materials and that since labels/stickers are not to be categorized as packing materials, the benefit of the said notification is not available to the appellants.

2. Learned Consultant appearing for the appellants submitted that the issue arise out of the present dispute is no more *res integra* in view of the decision of this Tribunal in the case of *Purab Printers v. Commissioner of Central Excise, Mumbai* [2015 (329) EL 416 (Tri.-Mumbai)].

3. On the other hand, Learned Authorised Representative appearing for the Revenue, reiterated the findings recorded in the impugned order.

4. Heard both the sides and perused the records.

5. We find that the Tribunal in the case of *Purab Printers (supra)* has extended the benefit of SSI exemption provided under Notification No. 8/2003-CE dated 01/03/2003, holding that clause (e)

under para 4 in the notification dated 01/03/2003 considers within its ambit labels, stickers for consideration of benefit of SSI exemption. The relevant paragraphs in the said decision are extracted herein below:

“5.1 To us it is clear that the intention of the Government is to grant the benefit of SSI exemption to goods, namely, packing material, containers, metal labels, etc., which may carry a brand name of the customer. The stated policy is clearly not to consider these labels manufactured by one person themselves as having any connection in the course of trade with the goods manufactured by the Customer for whom labels are made. The labels are made for customers who put them on the containers of goods manufactured by them (customers). Board Circular No. 71/71/94-CX, dated 27-10-1994 issued in the context of SSI Notification No. 1/93-C.E. supports this view. It states:

“Coming to the first illustration, castings are manufactured as per the specific requirement of the customers and the brand name which the small scale unit puts on such casting is meant for use of the customer only for further manufacture. Casting having such brand name are not sold in the market as castings as such, because it will be of no use to another person. It is felt that when such castings are not “traded” but only sold to a particular manufacturer for his own use, the embossing of the brand name of the customer on the castings would not amount to using brand name so as to deny the benefit of Notification No. 1/93. Of course it is found that such branded casting are traded in the market as such, it will amount to use of such casting in the course of trade and the benefit of exemption notification will not be available. In other words, so long as the branded castings are being supplied to the customer for further manufacture, and are not otherwise “traded”, the benefit of small scale exemption in such cases should not be denied merely on the ground that it contains brand name of another unit. Whether such supply is in the course of trade or not, of course, will be a matter of fact and has to be ascertained from the nature of transaction between the small scale unit and the brand name owner. So long as they are made to order as per the design and specification of a

particular manufacturer and sold to that manufacturer for his own use, the benefit of Notification No. 1/93 cannot be denied”.

We cannot agree with the learned AR that the Circular does not apply to the facts of the present case.

5.2 It is clear from the description of goods in Clause (e) that all kinds of labels, stickers would get covered. We note the Oxford dictionary meaning of “stickers” shown by the learned Counsel which describes a sticker as “an adhesive label or notice”. Even in the absence of a dictionary meaning we find no reason not to consider a label as sticker especially in view of the fact that the metal labels are also mentioned in Clause 4 (e). An interpretation of Clause 4(e) to the effect that stickers would mean only gummed labels is not borne by sound reasoning. We do not appreciate the thin line of distinction being at tempted by Revenue to differentiate between the stickers and labels. We do not think it necessary to go into the aspect of the affidavit or the dispute regarding presentation of labels before the adjudicating authority. Accordingly, we hold that the labels manufactured by the appellant are eligible for exemption in terms of Notification No. 08/2003-C.E. as amended by Notification No. 47/2007. Consequently, the question of penalty does not arise.”

6. In view of the above said position of law, we do not find any merits in the impugned order passed by the Learned Commissioner (Appeals). Accordingly, after setting aside the same, we allow the appeals in favour of the appellants.

(Pronounced in Court)

(C J Mathew)
Member (Technical)

*/as1100814082308

(S K Mohanty)
Member (Judicial)