(2015) 09 SC CK 0160

In the Supreme Court Of India

Case No : Civil Appeal Nos. 285 of 2007 and 808-809 of 2013

Commissioner of Central Excise — APPELLANT

Vs

Gopsons Papers Ltd. — RESPONDENT

Date of Decision : 09-09-2015

Acts Referred:

Citation : (2015) 324 ELT 5 : (2015) 52 GST 669

Hon'ble Judges : A.K. Sikri and Rohinton Fali Nariman, JJ.

Bench : Division Bench

Advocate : Yashank Adhyaru, Sr. Advocate, Nisha Bagchi, A.K. Srivastava, Pooja Sharma, Sujeeta Srivastava and B. Krishna Prasad, Advocates, for the Appellant; Devan Parekh, Senior Advocate, V. Lakshmikumaran, M.P. Devanath, R. Ramachandran, L. Charanaya, Aditya Bhat

Final Decision : Disposed Of

Judgement

Civil Appeal No. 285 of 2007:

1. In this case, the issue involved relates to classification of the product "printed thermal paper rolls" manufactured and cleared by the Respondent. According to the Respondent-Assessee, they are classified under Chapter Heading 49.01 of the Central Excise Tariff Act, 1985, whereas the case of the Department is that the proper classification is under Head 4811.90. The aforesaid two Chapter Heading Entries are described as under:-

"49.01 - Printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans.

4901.10 - Transfers (decalcomanias).

4901.20 - Maps and hydrographic or similar charts of all kinds including atlases, wall maps, topographical plans and globes, printed.

4901.90 - Other.

48.11 - Paper, paperboard, cellulose wadding and webs of cellulose fibres, coated, impregnated, covered, surface - coloured, surface-decorated or printed, in rolls or sheets, other than goods of the kind described in Heading No. 48.03, 48.09 or 48.10.

4811.10 - Tarred, bituminized or asphalted paper and paperboard.

4811.20 - Gummed or adhesive paper and paperboard - paper and paperboard coated, impregnated or covered with plastic (excluding adhesives):

4811.31 - Products consisting of sheets of paper or paperboard, impregnated, coated or covered with plastics (including thermoset resins or mixture thereof or chemical formulations containing melamine, phenol, urea formaldehyde with or without curing agents or catalysts), compressed together in one or more operations; Products known commercially as decorative laminates.

4811.39 - Other.

4811.40 - Paper and paperboard, coated, impregnated or covered with wax, paraffin wax, stearin, oil or glycerol.

4811.90 - Other".

2. From the aforesaid, it would be clear that as per the Assessee, it is essentially printing work which is done by the Assessee relating to the product in question and, therefore, the product comes under Chapter Heading 49.01 which pertains to printing.

3. We find that in the show cause notice itself, the process of manufacture which was seen and explained by the Company''s Director and accepted by the Revenue is described as under:

"The main raw material is ''one side coated thermal paper'' in jumbo roll, which is imported. The jumbo/Mother Thermal paper roll are generally of two width sizes i.e. 336 mm & 418 mm. this one side coated Thermal Paper Rolls are loaded on a printing machine. Some particulars as per the requirement of buyers are printed on the uncoated side of Thermal Paper, the coated side remaining blank. In some cases monogram of the buyer is printed as background on the Thermal coated side. The end of the paper roll winds upon the reminder as printing starts. The rolls are then first cut into smaller rolls and then slitted into rolls of dimensions of width 82.5 mm. After wrapping in polythene, these small rolls are packed in a box. Sometimes during the process of slitting, small rolls do not attain the required length and are sorted out as ''oversized''. At the time of visit, they were manufacturing Thermal Paper Rolls for M/s. Pan India Network Infravest (P) Ltd. They had also manufactured Thermal Paper Rolls for M/s. Bangalore Turf Club (hereinafter referred to as BTCL) and M/s. Cairs Computer Aided Information and Research Service (P) Ltd. (in short CAIRS) under logo/brand ''Playwin'', ''BTCL'' & ''Fortune'' respectively."

4. It is clear from the above that insofar as the Assessee is concerned, it is

undertaking the work of printing alone and is supplying to those who place orders in this behalf. The end use of the said product at the hands of the purchaser is not the concern of the Assessee and cannot be the consideration for classifying the goods in question. It is the Respondent which is to be assessed under the Central Excise Act and it has to pay the excise duty on the manufacturing process undertaken by it.

5. The aforesaid description of the work done by the Assessee makes it clear that it is the printing which it is undertaking and, therefore, it is rightly classified under Chapter Heading 49.01. Merely because the thermal paper rolls are the raw material used which is imported or which is cut to different sizes, would not be relevant factor in determination of the classification. These aspects are covered by the judgment of this Court in Headway Lithographic Company Vs. Commnr. of Central Excise and Holostick India Ltd. Vs. Commissioner of Central Excise .

6. This appeal is, accordingly, dismissed. Civil Appeal Nos. 808-809 of 2013

7. In these appeals again the fact of the manufacturing process remains the same except that the paper is not even thermal paper and the printing is done on the ordinary paper. Following the aforesaid order in Civil Appeal No. 285 of 2007, these appeals are also dismissed.

