
(1997) 07 SC CK 0128

In the Supreme Court Of India

Case No : Civil Appeal No. 2947 of 1989

Hindustan Mudran

APPELLANT

Vs

Collector of Central Excise, Pune

RESPONDENT

Date of Decision : 15-07-1997

Acts Referred:

Central Excise Rules, 1944 — Rule 8(1)

Citation : (1998) 79 ECR 741 : (1997) 94 ELT 474 : (1998) 7 JT 546 : (1998) 9 SCC 153

Hon'ble Judges : S. C. Agrawal, J; D. P. Wadhwa, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. The appellants were having a printing press wherein a Marathi daily newspaper called Tarun Bharat was printed. The said newspaper was owned by Rashtriya Vichar Prasarak Mandal, a public trust, namely, Hindustan Jagran, at Pune. The appellants were printing the newspaper under an agreement with the owners of the newspaper whereunder imported paper required for printing was to be supplied by Tarun Bharat to the appellants, all the matter for printing was to be given in manuscript by Tarun Bharat to the appellants, the appellants were to undertake the entire work of printing and the printed matter was to be handed over by the appellants to Tarun Bharat. The editing, distribution, etc. of the newspaper was entirely done by Tarun Bharat. Tarun Bharat were to pay to the appellants the printing charges as per the agreement which came to about Rs 45,000 to 48,000 per month. The appellants were not to print any other daily newspaper but were free to print any periodicals, calendars and other jobworks. The case of the appellants was that since the appellants were printing the newspaper on job workbasis they were entitled to take the benefit of Notification No. 119/75-CE dated 30-4-1975 issued by the Central Government under Rule 8(1) of the Central Excise Rules, 1944, giving certain exemption from payment of excise duty on goods produced on job workbasis. The appellants claimed refund of excise duty on the basis of the said notification. The Assistant Collector of

Central Excise, Pune, by his order dated 6-5-1978, after taking note of the agreement between the appellants and Tarun Bharat has found that the appellants did only job work inasmuch as they received manuscript of printing matter and newsprint from Tarun Bharat for printing the matter and thereafter returned the matter duly printed to Tarun Bharat as per the agreement and that it constitutes job work on the part of the appellants as defined in Notification No. 119/75-CE dated 30-4-1975. The Assistant Collector, however, held that the appellants were not entitled to exemption since they did not fulfil the conditions of investment and turnover ingrained therein. The said order of the Assistant Collector was set aside by the Collector of Central Excise (Appeals) by his order dated 21-6-1984 and it was held that the appellants would be entitled to refund if otherwise admissible. The Collector (Appeals) placed reliance on the judgment of the Gujarat High Court in Anup Engineering Ltd Ahmedabad and Others Vs. Union of India and Others,

2. The Customs, Excise and Gold (Control) Appellate Tribunal, by the impugned judgment dated 14-3-1989, has reversed the said view of the Collector (Appeals) and has held that the appellants were not entitled to the benefit of Notification No. 119/75-CE dated 30-4-1975. The Tribunal has relied on judgment of the Special Bench of the Tribunal in 1985 ECR 1081 wherein the Tribunal had taken the view that for the purpose of entitlement to the benefit of the notification the article entrusted by the customer should, after the application of manufacturing process by the job workers, not lose its essential identity entirely, but should retain its essential identity, subject to the effect of the manufacturing process carried out. This matter has been considered by this Court in its recent judgment in Prestige Engineering (India) Ltd. and Others Vs. Collector of Central Excise, Meerut and Others, wherein the Court has taken note of the decision of the Tribunal in 1985 ECR 1081. While dealing with the submissions of the learned counsel for the Revenue placing a restricted interpretation on the notification, the Court has said:

"At the same time, we find it difficult to agree with the learned counsel that the expression 'manufacture' contemplated by the notification is confined to those processes alone which are 'incidental or ancillary to the completion of manufactured product' -- processes contemplated by clause (0 of Section 2(f). We do not see any warrant for restricting the meaning of the expression 'manufacture' occurring in the notification only to the aforesaid processes. In our opinion, the stress in the notification is rather upon the word 'jobwork'. Now, what does the expression 'jobwork' mean? On this question, the Explanation is not of much assistance. The Concise Oxford Dictionary assigns several meanings to the expression 'job' but the relevant meaning having regard to the present context is 'a piece of work especially one done for hire or profit'. The expression 'jobwork' is assigned the following meaning: 'Work done and paid for the job.' The notification, it is evident, was 'conceived in the interest of small manufacturers undertaking jobworks. The idea behind the notification was to help the job workers - persons who contributed mainly their labour and skill,

though done with the help of tools, gadgets or machinery, as the case may be. The notification was not intended to benefit those who contributed their own material to the articles supplied by the customer and manufactured different goods. We must hasten to add that addition or application of minor items by the jobworker would not detract from the nature and character of his work.

* * * The interpretation placed by us does not render the explanation in the notification redundant in any manner, while at the same time it advances the object of the notification, viz., helping factories undertaking manufacturing processes in the nature of jobwork. The restricted interpretation contended for by the Revenue unduly curtails the operating field of the notification. True it is that processes incidental or ancillary to the completion of the manufactured product are within the purview of the notification, but it may not be correct to say that the notification refers only to those processes and to nothing else.

* * * The Special Bench evidently laid more emphasis upon the Explanation which led it to confine the operation of the notification only to those processes which are incidental or ancillary to the completion of the manufactured product. That in our view amounts to undue curtailment of the ambit of the notification. If that were the intention of the Central Government in issuing the notification, it would have said so clearly. It must be remembered that the notification was issued simultaneously with the introduction of Tariff Item 68 in Schedule I to the Act and was intended to help those factories jobworkers, who were charging their customers only for the work done by them. In their hands, the value of the article would be the value of the job work done by them - and not the total value of the article which would have been the case but for the notification."

3. In view of the decision of this Court in *Prestige Engineering (India) Ltd. and Others Vs. Collector of Central Excise, Meerut and Others*, and having regard to the findings that have been recorded by the Assistant Collector in the present case that the appellants were getting the newsprint from Tarun Bharat and the editing was also being done by Tarun Bharat and only printing job was to be done by the appellants in the press, it must be held that the job work which was being done by the appellants fell within the ambit of Notification No. 119/75-CE dated 30-4-1975 and the appellants were entitled to the benefit of the said notification. The appeal is, therefore, allowed, the impugned judgment of the Tribunal is set aside and the judgment of the Collector of Central Excise (Appeals) is restored. No order as to costs.