M/s. Narne Tulaman Manufacturers Pvt. Ltd., Hyderabad

Vs

Collector of Central Excise, Hyderabad

Civil Appeals Nos. 1335-36 of 1987

(K. H. Kania, S. Ranganathan, Sabyasachi Mukharji JJ)

15.09.1988

JUDGMENT

SABYASACHI MUKHARJI, J. –

1. These appeals under Section 35-L of the Central Excises and Salt Act, 1944. (hereinafter called 'the Act') arise from the decision of the Customs, Excise and Gold (Control) Appellate Tribunal (CEGAT for short), New Delhi. The question that fell for consideration by the Tribunal is whether the appellant, M/s. Narne Tulaman Manufacturers Pvt. Ltd., manufactures weighbridges and as such was liable to duty under the Act.

2. It appears that weighbridges consisted of three different parts, namely, (1) platform, (2) load cells and (3) indicating system. The contention of the appellant was that he got the platform manufactured from other people. The load cells were imported and the appellant only made the indicator system. In other words, it was the case of the appellant that it manufactured only the indicator system. The question that fell for the Tribunal's determination was whether the activity indisputably carried out by the appellant amounted to manufactured and what does it manufacture ? It has been found that "the appellant brought the three components together at site, fitted and assembled them together so that they can work as one machine and as such the appellant manufactured and created a new weighbridge". The aforesaid findings appear on paragraph 5 of the Tribunal's order. That the weighbridge had not been excised before is not disputed. The term of the central excise speaks of "weighbridges"; whenever weighbridges are made, those weighbridges are subjected to duty as such. The Tribunal held that by whatever process it becomes a complete weighbridge as long as a weighbridge has been made and completed, duty has to be paid. According to the Tribunal, though as parts are themselves liable to excise duty even so the complete machine is also new excisable goods. In view of the well-settled principles, the excisables goods are manufactured by the appellant. Section 2(f) of the Act provides an inclusive definition and states that the word "manufacture" includes any process incidental or ancillary to the completion of a manufactured product. So any process by which an object becomes new commercial goods, including any process incidental or ancillary to the completion would be manufactured. Manufacture means bringing into existence a new goods. This court observed in Union of India v. Delhi Cloth and General Mills (1963 Supp 1 SCR 586 : AIR 1963 SC 791) that manufactured implies a change, but every change is not manufactured and yet every change of an article is the result of treatment, labour and manipulation. But something more is necessary and there must be transformation; a new and different article must emerge having a distinctive name, character or use. The question, therefore, is whether the activity carried out by the appellant of assembling the three components of the weighbridge brings into being a complete weighbridge which has a distinctive name, character or use. See also the observations of this Court in Allenbury Engineers (P) Ltd. v.

Ramkrishna Dalmia ((1973) 1 SCC 7 : (1973) 2 SCR 257) and Idandas v. Anant Ramchandra Phadke ((1982) 1 SCC 27).

3. The appellant's contention before the Tribunal was that it was only preparing a part and that part is dutiable as a separate part. The appellant, however, did the word of assembling. As a result of the work of the appellant a new product known in the market and known under the excise item "weighbridge" comes into being. The appellant will become a manufacturer of that product and as such liable to duty. That is precisely what the Tribunal found on the facts of the case. The appellant seems to have been obsessed by the idea that as part of machine is liable to duty then the whole end product should not be dutiable as separate excise goods. That is mistake; a part may be goods as known in the excise laws and may be dutiable. The appellant in this case claims to have manufactured only the indicator system. If the indicator system is a separate part and a duty had been paid on it and if the rules so provide then the appellant may be entitled to abatement under the rules. But if the end product is a separate product which comes into being as a results of the endeavour and activity of the appellant then the appellant must be held to have manufactured the said item. When parts and the end product are separately dutiable - both are taxable.

4. In that view of the matter, the appellant's case that it is liable only for the component part and not the end product cannot be entertained. The Tribunal was, therefore, right in the view it took. These appeals have no merit and are accordingly dismissed. This order will not prejudice the right of the appellant to claim, if any, abatement as indicated before according to the rules if the appellant is so entitled.

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