

Collector of Customs, Madras

Vs

Lotus Inks

Civil Appeal No. 436 of 1985

(CJI A. M. Ahmadi, Sujata V. Manohar JJ)

26.09.1996

ORDER

1. This appeal by the Revenue is directed against the order of the Customs, Excise and Gold Control Appellate Tribunal, New Delhi, dated 10-5-1983. The respondents who are manufacturers of ink used Alkali Blue Flushing in the preparation of printing ink and the question is whether the said commodity falls within Item 14-I (1) (ii) or 14-D of the Central Excise Tariff. At the relevant point of time the two items read as under :

"14. Pigments, colours, paints, enamels, varnishes, blacks and cellulose lacquers -

(1) Pigments, colours, paints and enamels -

(i) Aluminium paste

(ii) Pigments and colours, not otherwise specified."

The duty for this item is 5 per cent ad valorem. Entry 14-D reads as under :

"14-D. Synthetic organic dyestuffs (including pigment dyestuffs) and synthetic organic derivatives used in any dyeing process.

2. The Tribunal reversing the orders of the authorities below held in favour of the assessee and against the Revenue. In other words it held that the item fell within the parameter of Entry 14-I (1) (ii) and not 14-D of the Central Excise Tariff. The contention of the Revenue was that the goods fell within the expression synthetic organic dyestuff, a pigment dyestuff in the form of paste and, therefore, attracted Entry 14-D. According to the Appellate Collector the said pigment dyestuff was used as an ingredient to impart the required tint to printing ink. He, therefore, held that the substance was not printing ink. The Tribunal came to the following conclusion :

"The Alkali Blue Flushing is used to tone or to tint carbon black for printing ink. It is also used as a paint. No evidence has been produced that it is used in dyeing, although being a colour, it can sometimes be called a dye."

3. On this line of reasoning the Tribunal rejected the Revenue's contention that the product fell under Item 14-D of the Tariff.

4. An attempt was made to draw our attention to a report dated 9-10-1984 which went to show that the product in question was a synthetic organic dyestuff and would attract duty under Item 14-D.

However, it is clear from the decision of the Tribunal that the respondents are in the business of manufacturing printing ink wherein the commodity in question is used for the purpose of toning up the printing ink. It is not used in the dyeing process. The Tribunal, therefore, took the view that in the absence of evidence to the contrary it is not possible to hold that the item falls within the Entry 14-D. Even if two views were possible the one in favour of the assessee would guide our decision. We, therefore, do not see any reason to interfere with the order of the Tribunal. The appeal is, therefore, dismissed. No order as to costs.