

**SUPREME COURT OF INDIA**

Commr.of Central Excise

Vs.

Shanmugananda Soapnut Works

C.A.No.6011-6013

(S.H. Kapadia and B. Sudershan Reddy JJ.)

17.09.2008

**ORDER**

1. Repeatedly this Court has observed that in cases in which excisability is in issue, the Department should insist on the examination of the process undertaken by the assessee in the manufacture of a given product. Despite our saying so, repeatedly, the Department is not insisting on examining the process. This is one more such case.
2. In the present case, the investigation revealed that the respondent-assessee, M/s. Shanmugananda Soapnut Works, was engaged in the manufacture of Shikakai powder by crushing shigekai pods and 'Reeta' mixed in preparation of 10:1. Despite the said revelation made in the course of investigation, the show cause notice has not even alleged that the assessee is engaged in the manufacture of Shikakai powder by crushing shigekai pods and 'Reeta' being mixed and, consequently, the entire adjudication stands derailed. Further, it may be stated that mixing of 'Reeta' has been held to constitute manufacture in numerous judgments. But, in this case, the respondent-assessee has specifically averred that they are merely powdering shigekai pods and that they do not add any herbal material thereto. Lastly, in the present case, the adjudication authority has not insisted on examining the process undertaken by the assessee in conversion of the pods into powder.
3. We may state that there are other conjoint matters in which we are informed that the cases involved mixture of Reeta into Shikakai powder. However, as stated above, this is not the case in the present matter.
4. Therefore, for want of allegations in the show cause notice and for want of specific findings with regard to use of Reeta in the powder, we do not wish to interfere on the facts of the present case. We make it very clear that those cases in which Reeta is added to the powder stand on a different footing and we do not wish to comment about those cases herein.
5. Subject to above, Civil Appeals stand dismissed with no order as to costs.