

Customs, Excise and Gold Tribunal - Delhi

Tata Oil Mills Co. Ltd. vs Collector Of Central Excise on 20 March, 1998

Equivalent citations: 1998 (102) ELT 479 Tri Del

ORDER J.H. Joglekar, Member (T)

1. The appellants were using printed cartons as packing material for the detergent powder manufactured by them. During packing, some cartons got torn. They were sold at a contracted price as waste. The condition of the goods sold was not disputed by the Department. The Assistant Collector, however, held that for the purposes of valuation under Rule 57F(4)(a) the value should be taken at which the cartons were originally purchased. The Collector (Appeals) in his order disagreed with the Assistant Collector. Holding that removal of such cartons should be covered under Rule 57F(1) holding that the duty paid under this Rule cannot be less than the credit availed, he upheld the lower Order resulting in the present appeal.

2. We have heard Shri P.K. Mittal, Advocate for the appellants and Shri H.K. Jain, DR for the Revenue.

3. Rule 57F(1) cover the situation of removal from the factory of goods which are in the same condition as they were brought in. In that case they have to be cleared on payment of duty which should not be less than the rate at which credit was taken. Rule 57F(4) on the other hand deals with waste arising from the processing of inputs and rules that such waste be removed on payment of duty. The two rules cover two entirely different situations. It is not in doubt that what was cleared was torn waste cartons. They were not inputs removed "as such". Therefore, provisions of Rule 57F(1) would not apply. Once it is accepted that the goods cleared were waste, the insistence of applying the value to such waste of the good cartons originally received is also without logic. In the lower proceedings, no doubt has been expressed as to the authenticity of the price at which the goods were contracted to be sold. Both the lower authorities were entirely wrong in their approach and their orders do not sustain. This appeal is allowed. Directions are made for any consequential relief, if any.