

Supreme Court of India

Collector Of Central Excise, ... vs Kores (India) Limited, Thane on 10 December, 1996

Equivalent citations: 2003 (89) ECC 727, 1997 (89) ELT 441 SC, (1997) 10 SCC 338

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Bench: S Bharucha, S Sen

JUDGMENT S.P. Bharucha, J.

1. The Customs, Excise and Gold (Control) Appellate Tribunal took the view that stencil skin was classifiable under the residuary Tariff Item 68 for the purposes of excise duty and not under Item 17(2) which covers paper and paper board, all sorts, including coated paper. In so doing the Tribunal relied upon a Tariff Advice issued by the Central Board of Excise and Customs on 20-11-1978. The Tariff Advice stated that the levy of duty on coated paper for making stencil paper had been under examination and it had been decided that coated paper was an intermediate product which did not come into the market either to be bought or sold. It was used in the manufacture of stencils and should be considered not excisable.

2. There is a Trade Notice dated 1-3-1976, cited by learned Counsel for the respondent, that expressly deals with stencil paper; it states that stencil paper should be treated as an article of stationery and, therefore, outside the purview of Item 17.

3. The learned Addl. Solicitor General, on behalf of the Revenue, has drawn our attention to the judgment of this Court in Collector of Central Excise, Kanpur v. Krishna Carbon Paper Co. , where it was observed, with reference to the Tariff Advice that dealt with coated paper, that Trade Notices and Tariff Advices were not relevant, as such, in construing items in the Tariff Schedule. A quasi-judicial body exercising quasi-judicial powers was not bound by the directions of the Central Board of Excise & Customs. It was, therefore, submitted by the learned Addl. Solicitor General, that regardless of the tariff Advice and Trade Notice, we should decide whether stencil skin fell under Item 68 as held by the Tribunal or under Item 17(2) as contended by the Revenue.

4. A Tariff Advice or a Trade Notice issued by the Board certainly does not bind the Tribunal or the Courts and an assessee may argue that it is erroneous; but it is not open to the Revenue to advance arguments that are contrary to the terms thereof. Upon this short ground alone, the appeals must be dismissed.

5. Order accordingly.

6. No order as to costs.