

Supreme Court of India

Entremonde Polycoaters (P) Ltd. vs Collector Of Central Excise, Pune on 24 July, 1997

Equivalent citations: AIR 1999 SC 2636, 1999 ECR 13 SC, 1997 (94) ELT 281 SC, JT 1998 (9) SC 141, (1998) 9 SCC 232

Bench: J Verma, B Kirpal

ORDER

1. The appellant manufactures "plastic-coated paper" in respect of which it has already paid duty on the paper as well as the plastic material including the colours used for manufacture of the plastic-coated paper. The question is whether the appellant is entitled to the benefit of exemption from payment of duty granted by Notification No. 68/76-CE dated 16-3-1976. The relevant part of that notification reads as under:

"TABLE Sl. No. Description Rate of duty Condition (1) (2) (3) (4) 1. * * *

2. * * *

3. * * *

4. Following varieties of paper, namely:

(i) * (ii) Converted types of Nil If it is proved paper commonly known to the satisfaction as imitation flint paper of the proper or leatherette paper or officer that the plastic-coated paper, or appropriate duty of by any other name, excise or additional obtained by one side of duty leviable under paper being subjected to Section 2-A of the printing of colour, with Indian Tariff Act, or without design, 1934 (32 of 1934), irrespective of the fact as the case may be, whether or not such has already been paper is subsequently paid in respect of varnished or glazed by the paper used in chemicals or embossed, their manufacture. and falling under sub- item (2) of the aforesaid Item 17. (iii) * "

The Tribunal has rejected the appellant's claim on the ground that one side of the paper has not been subjected to printing of colours and, therefore, benefit of exemption under the above notification is not available. The correctness of this view is challenged in this appeal.

2. There is no dispute that the goods in question is "plastic-coated paper". That being so, the question is whether there is a further requirement of the plastic-coated paper being subjected to printing of colour on one side thereof. As we construe the above entry in the notification, we think that this additional requirement is not necessary for plastic-coated paper. The plain and reasonable construction of the above-quoted entry is that "imitation flint paper" or "leatherette paper" or "plastic-coated paper" are three types of paper known by these names which do not require the fulfilment of any other condition such as printing of colour on one side thereof for getting the benefit of the exemption under that notification. This further requirement of being subjected to printing of colour on one side is necessary in respect of the converted types of paper commonly known by any other name, that is, a name other than "imitation flint paper" or "leatherette paper" or "plastic-coated paper". The further requirements specified in the words following the expression "by

any other name", apply to converted types of paper commonly known by any other name, that is, by a name other than "imitation flint paper" or "leatherette paper" or "plastic-coated paper", but not to any of these three types of paper of which the specific name has been so mentioned. This being so, for the manufacture of plastic-coated paper by the appellant, benefit of exemption from payment of duty under the above notification is available to the appellant.

3. Consequently, the appeal is allowed. The impugned order of the Tribunal is set aside.