Supreme Court of India
Garden Silk Mills Ltd. vs Collector Of Customs, Bombay on 5 February, 1997
Equivalent citations: 1997 (91) ELT 263 SC, JT 1997 (10) SC 703, (1997) 9 SCC 699
Author: S C Sen
Bench: S Sen, B Kirpal
JUDGMENT Suhas C. Sen, J.

1. The appellants imported Darey Concard Blankets of different sizes. They claimed that they were entitled to the benefit of Notification No. 169/77-Cus., dated 6-8-1977 claiming that the blankets imported by them were for printing fabrics and, therefore, were exempted by the terms of the notification which allowed exemption in respect of rubber blankets falling under Chapter 40 of the First Schedule when imported into India for use in the printing industry. The Assistant Collector held that the goods were for use in the textile industry and, therefore, the benefit of the notification could not be availed of by the appellants.

2. The Collector of Customs on appeal held 'printing industry' in the notification was broad enough to take in printing done in the textile mills.

3. On further appeal, the Tribunal held that the assessee was using rubber blankets in the textile printing units. Therefore, these rubber blankets were not used in printing presses. It was pointed out that the rubber blankets used by the appellants in the textile printing units were not interchangeable with those used in the printing presses.

The relevant Notification No. 169/77-Cus., dated 6-8-1977 is as under :

In exercise of the powers conferred by Sub-section (1) of Section 25 of the Customs Act, 1962 (52 of 1962) the Central Government being satisfied that it is necessary in the public interest so to do, hereby exempts rubber blankets, falling within Chapter 40 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), when imported into India for use in the printing industry, from so much of the duty of Customs leviable thereon which is specified in the said First Schedule as in excess of 40% ad valorem.

4. The crucial words in this notification are "for use in the printing industry". That the appellants were printing fabrics is not in dispute. The finding of the Tribunal was that the appellant was a textile industry and the further finding was that the rubber blankets that were imported were not interchangeable and could not be used in the other type of printing presses which were printing books, periodicals etc.

5. The contention of the appellant is that the use of expression "printing industry" cannot be confined to any one type of printing press. Our attention is invited to various dictionary meanings to show that a printing press can be used for a variety of things, including printing books, periodicals and many other things. The contention is, therefore, when the fabrics are printed in a textile mill, such activity of printing will also be the job of a printing press. The printing done in the textile industry cannot be taken out of the work done by a 'printing press'.

6. It is further contended that the Government of India itself has recognised this position and, by a subsequent notification, has enlarged the scope of the Notification dated 6-8-1977.

7. The Additional Solicitor General appearing for the Union of India has drawn our attention to a judgment of this Court in the case of Rollatainers Ltd. and Anr. v. Union of India and Ors. (1994) Supp. 3 SCC 293. There the question was of construction of a notification which dealt with "all products of printing industry, including newspapers and printed periodicals". In that case, it was argued that printed packages should be treated as a product of printing industry and the benefit of the notification under consideration in that case must be given to printed packages. Repelling that contention, it was pointed out that an ordinary carton without any printing on it was a complete product and indisputably the product of the packaging industry. The question for consideration was, did it cease to be the product of packaging industry as and when some printing was done on the said carton. The Court held that this extreme contention could not be upheld. Whenever some printing was done, the product could not be said to be the product of printing industry. The Court cited with approval the observation of the Division Bench of the High Court of the following effect:

In our view, it would be an extreme proposition to hold that all products o which some printing is done is a product of the printing industry. In that event, printed cloth would be a product of the printing industry and not of the textile industry.

(Emphasis supplied)

8. The Court went on to hold that what was exempt under the notification was a product of the printing industry. The printing industry by itself could not bring the carton into existence. Any amount of fancy printing on a car board would not make it a carton. In the process of manufacturing the printed cartons, the cardboard has to be cut, printed, creased and given the shape of a carton by using paste or gum. Simply because there are expensive prints on the carton, it would not become a product of the printing industry.

9. In our view, this judgment is a complete answer to the argument advanced by Mr. Salve on behalf of the appellants. The Garden Silk Mills Ltd. produces fabrics. These fabrics may or may not be printed. If any printing is done, the fabric will not cease to be fabric and Garden Silk Mills Ltd. will not cease to be a textile industry and become printing industry.

10. Therefore, we are of the view that the benefit of the notification will not be available to the appellants. We uphold the order of the Tribunal in this regard.

11. Our attention was drawn to a subsequent notification. We do not express any opinion on the scope of that notification as it does not fall for consideration in this case.

12. The appeal is, therefore, dismissed. There will be no order as to costs.