

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE  
TRIBUNAL,  
SOUTH ZONAL BENCH, CHENNAI  
COURT HALL No. III**

**(1) EXCISE APPEAL No.41994 OF 2014**

(Arising out of Order-in-Appeal No.CMB-CEX-000-APP-073-14 dated 10.06.2014 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), No.6/7, A.T.D. Street, Race Course Road, Coimbatore 641 018)

**M/s.Chromaprint (India) Pvt. Ltd.**

**.... Appellant**

SF Nos.215/2, 216/3, NGGO Colony Post,  
Vattamalaipalayam, Idikarai Main Road,  
Coimbatore 641 022.

Versus

**The Commissioner of GST & Central Excise,**

**...Respondent**

Coimbatore Commissionerate  
No.6/7, A.T.D. Street, Race Course Road,  
Coimbatore 641 018.

**(2) EXCISE APPEAL No.42013 OF 2014**

(Arising out of Order-in-Appeal No.CMB-CEX-000-APP-074-14 dated 10.06.2014 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), No.6/7, A.T.D. Street, Race Course Road, Coimbatore 641 018)

**M/s.Target Print**

**.... Appellant**

43, Ganesh Nagar,  
G.N. Mills Post,  
Coimbatore 641 029.

Versus

**The Commissioner of GST & Central Excise,**

**...Respondent**

Coimbatore Commissionerate  
No.6/7, A.T.D. Street, Race Course Road,  
Coimbatore 641 018.

**(3) EXCISE APPEAL No.42161 OF 2014**

(Arising out of Order-in-Appeal No.CMB-CEX-000-APP-077-14 dated 10.06.2014 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), No.6/7, A.T.D. Street, Race Course Road, Coimbatore 641 018)

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**M/s.Jataayu Enterprises**

Shop Nos.2 & 3, 60 Feet Road,  
 Shanbognagappa Lay-out,  
 Bannerghatta Road,  
 Bangalore 560 076.

**.... Appellant**

Versus

**The Commissioner of GST & Central Excise,**

Coimbatore Commissionerate  
 No.6/7, A.T.D. Street, Race Course Road,  
 Coimbatore 641 018.

**...Respondent**

**(4) EXCISE APPEAL No.42162 OF 2014**

(Arising out of Order-in-Appeal No.CMB-CEX-000-APP-076-14 dated 10.06.2014 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), No.6/7, A.T.D. Street, Race Course Road, Coimbatore 641 018)

**M/s.Garuda Graphics**

No.4, 60 Feet Road,  
 Shanbognagappa Lay-out,  
 Bannerghatta Road,  
 Bangalore 560 076.

**.... Appellant**

Versus

**The Commissioner of GST & Central Excise,**

Coimbatore Commissionerate  
 No.6/7, A.T.D. Street, Race Course Road,  
 Coimbatore 641 018.

**...Respondent**

**(5) EXCISE APPEAL No.42163 OF 2014**

(Arising out of Order-in-Appeal No.CMB-CEX-000-APP-075-14 dated 10.06.2014 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), No.6/7, A.T.D. Street, Race Course Road, Coimbatore 641 018)

**M/s.Eagle Offset**

No.4, 60 Feet Road,  
 Shanbognagappa Lay-out,  
 Bannerghatta Road,  
 Bangalore 560 076.

**.... Appellant**

Versus

**The Commissioner of GST & Central Excise,**

Coimbatore Commissionerate  
 No.6/7, A.T.D. Street, Race Course Road,  
 Coimbatore 641 018.

**...Respondent**

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**APPEARANCE :**

Mr. K. Shankaranarayanan, Advocate  
For the Appellant

Mr. M. Selvakumar, Assistant Commissioner (A.R)  
For the Respondent

**CORAM :**

**HON'BLE MS. SULEKHA BEEVI.C.S., MEMBER (JUDICIAL)**  
**HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)**

DATE OF HEARING : 07.03.2024  
DATE OF DECISION : 07.03.2024

**FINAL ORDER Nos.40275-40279/2024**

**ORDER : [Per Ms. Sulekha Beevi. C.S ]**

The issue involved in all these appeals being same and connected, they are heard together and disposed of by this common order.

2. Brief facts are that the appellant M/s.Chromaprint (India) Pvt. Ltd. are engaged in the work of printed labels and printed cartons for corrugated boxes falling under Tariff Heading 48211020 and 48191010 of Central Excise Tariff Act, 1985. According to the department, the activity of printing amounted to manufacture. The appellant cleared the goods without payment of duty. The

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department was of the view that they contravened the provisions of Rules, 4, 6, 8, 10, 11 and 12 of Central Excise Rules, 2002 in as much as they manufactured and cleared printed labels without assessing the duty involved thereon, without payment of duty and without issuing proper invoices for clearances of such goods during the period January 2007 to March 2011. Show cause notice was issued to the said appellant demanding Excise Duty of Rs.24,66,681/- along with interest and also for imposing penalties. The other appellants were issued show cause notices proposing to impose penalty being the parties who had supplied raw materials to the appellant. After due process of law, the original authority held that the activity undertaken by appellant is manufacture, and therefore confirmed the duty along with interest and imposed penalties. Separate penalty was imposed on other appellants. Aggrieved by such order, they filed appeals before Commissioner (Appeals) who upheld the same. Hence these appeals.

3. The Learned Counsel Sri K. Shankaranarayanan appeared and argued for the appellants. It is submitted that the department has not alleged in the show cause notice or stated in the order passed by the adjudicating authority as to how the activity of printing undertaken by the appellant would amount to 'manufacture'. The Ld. Counsel adverted to Chapter 48 and 49 of CETA 1985 and submitted that the Chapter notes therein do not say that the activity of printing on paper / paperboard amounts to 'manufacture'. To

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substantiate this argument, Ld. Counsel drew support from Chapter notes to Chapter 52 to 54 to argue that in the said chapter notes, at note 4, it is clearly stated that printing on fabric would amount to 'manufacture'. Since chapter 42 does not say that printing activity on paper or paperboard amounts to 'manufacture', the activity of the appellant cannot be construed to be manufacture. Merely because the products are classifiable under Tariff Heading 48191010 the department cannot hold that the activity of 'printing' done by the appellant amounts to 'manufacture'. It is explained by the Ld. counsel that the customers who are co-noticees supplied the raw materials such as paper board of different varieties to the appellant on which the appellant did the job of printing. The appellant is not a job worker of the parties who have supplied paper board to the appellant. If at all, the activity would only amount to be a 'service' under Business Auxiliary Service. The activity of 'printing' is exempted from levy of service tax as per the Notification No.14/2004 dt. 10.09.2004. The Board vide its circular No.80/10/2004-ST. dt. 17.9.2004 at para 18.3 has clarified that the activity of 'printing' is exempted from service tax as per Notification No.14/2004-ST dt. 10.09.2004.

4. Ld. Counsel relied upon the following decisions to submit that the activity of printing on paper/paperboard does not amount to 'manufacture' :

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- (i) *Matchwell Vs CCE Ahmedabad - 2020 (371) ELT 840 (Tri.- Ahmd.)*
- (ii) *HBD Packaging (P) Ltd. Vs CCE, Noida – 2012 (284) ELT 727 (Tri.-Del.)*
- (iii) *Fitrite Packers Vs CCE Mumbai – 2006 (2030 ELT 452 (Tri.-Mumbai)*
- (iv) *ITC Ltd. Vs CCE Chennai – 2004 (166) ELT 426 (Tri.-Chennai)*

Ld. Counsel prayed that the appeals may be allowed.

5. Ld. A.R Sri M. Selvakumar appeared and argued for the Department. It is submitted that the appellant is a job worker and is only printing on the paper / boards / corrugated boxes etc. supplied by their customers. After such process, the goods have attained character of finished goods as entire activity of manufacturing is carried out by the appellant viz; M/s.Chromaprint (India) Pvt. Ltd. As per Rule 2 (a) of the General Rules of Interpretation of Central Excise Tariff the printing carried out by the appellant amounts to 'manufacture'.

The said rule reads as under :

*"2 (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (of falling to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled"*

6. It is submitted by Ld. A.R that after the printing, the incomplete and unfinished paper board, tags etc. attain the essential character of the complete or finished article, and therefore the activity amounts to 'manufacture'. Further, the goods are classifiable

as 'Printed Cards' falling under CETH 48211020. For these reasons, duty confirmed by the adjudicating authority as well as the Commissioner (Appeals) is legal and proper. The co-noticees have supplied raw material to the appellant and therefore the penalty imposed on them is legal and proper. Ld. A.R prayed that the appeals may be dismissed.

7. Heard both sides.

8. The issue to be decided is whether the activity of printing undertaken by the appellant amounts to 'manufacture' or not. The case of the department is that the appellant is a job worker who received raw material from the customers and do the activity of printing which amounts to manufacture of finished products. However, in the show cause notice or in the Order-in-Original it is not explained by department as to which is the provision which renders the activity of printing undertaken by the appellant excisable so as to be 'manufacture'.

9. The Department has construed the activity of printing to be manufacture, merely because the goods fall under tariff heading 482110. The classification of the goods or its excisability cannot be a ground for holding that the activity amounts to 'manufacture'. The department has to establish that the activity undertaken by the appellant as per the chapter notes of Section 48 to be that of manufacture. In the present case, there is nothing brought out on

record to hold that the activity of printing is "manufacture" by chapter notes.

10. In the case of *Matchwell* (supra), the Tribunal had occasion to consider similar issue. It was held that merely because the goods are classifiable under a particular tariff heading, it cannot be said that the activity undertaken by the appellant in the nature of printing of images on paper would amount to 'manufacture'. Relevant paragraph reads as under :

"7. Heard both the sides and perused the records. We find that the fact is not under dispute that the appellant have carried out the printing process on the already manufactured papers. The department's contention is that the printed paper is classifiable under CETH 4811 90 99 and liable to duty. The Ld. Counsel submitted that the printing of already manufactured paper do not amount to manufacture, therefore, the printed paper is not liable to duty being non-manufactured goods in terms of Section 2(f). We find that the department has demanded duty with a view that the appellant have manufactured printed paper, however appellant have not manufactured paper, they have only carried out the process of printing. We find that the nature of printing carried out by the appellant does not alter the identity of the product as the paper remains as a paper only and mere printing does not amount to manufacture. In this regard Ld. Counsel relied upon the various judgments. In the case of *Pan Pipes Resplendents Ltd.* (supra), Hon'ble Supreme Court held that printing/decorating of duty paid glazed ceramic tile did not change their basic character namely, glazed tile and hence not amount to manufacture in terms of Section 2(f) of Central Excise Act, 1944. In case of *Metlex (I) P. Ltd.* (supra), the Hon'ble Supreme Court observed laminating/metallising of duty paid film does not amount to manufacture. In the case of *Servo-Med Industries (P) Ltd.* (supra), the Hon'ble Supreme Court held that manufacture is distinct from marketability/saleability, it takes place on application of one or more processes which may lead to a change in goods to amount to manufacture, there must be a transformation by which new and different article which has distinctive name, character or use, Every change is not manufacture. If finished product cannot conveniently be used in the form in which it happens to be, and is required to be changed into various shapes/sizes, character and end use of first product continue to be same, there is no transformation. In the present case also applying the ratio of Hon'ble Supreme Court judgment, the paper remained as paper, the printing process carried out only for use in the decorative laminate sheets/MDF Boards etc. However, after process of printing, the first product i.e. paper continue to be same as paper only, therefore, no manufacturing has taken place in the present case. The Hon'ble Supreme Court in the case of *Paper*



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*Product Ltd.* (supra), held that in the case of printing of name by job worker on film which is then utilized for purpose of packing does not amount to manufacture. As per this judgment, the printing was enabling the product to use as packing material for the purpose of packing. Similarly, in the present case also, the plain paper was printed with design for use in decorative laminate sheets/MDF Boards.

**8.** We also find that even if there is change in tariff heading, but there is significant change in the process and the said process does not amount to manufacture, merely change of tariff heading does not make product dutiable once again. This issue has been considered in the various judgments :

- *S.R. Tissues P. Ltd.* - [2005 \(186\) E.L.T. 385](#) (S.C.)
- *Variety Lumbers P. Ltd.* - [2014 \(302\) E.L.T. 519](#) (Guj.)
- *Variety Lumbers P. Ltd.* - [2018 \(360\) E.L.T. 790](#) (S.C.).
- *Castings (India) Ltd.* - [2016 \(342\) E.L.T. 343](#) (Jhar.)

The Ld. Counsel has made alternative submission that even if the process is considered to be a process which amount to manufacture, the printed base paper will merit classifiable under Chapter 49, hence no duty is payable on end product. In this regard, we find that the relevant Chapter Note 2 of Chapter 49 is reproduced below :

“2. For the purposes of Chapter 49, the term “printed” also means reproduced by means of a duplicating machine, produced under the control of an automatic data processing machine, embossed, photographed, photocopied, thermocopied or typewritten.”

From the above chapter note, it is clear that any printed paper if amount to manufacture, the same is correctly classifiable under Chapter Note 49 and the most appropriate Central Excise Tariff Heading shall be 4911 99 90 which attracts nil rate of duty. On this plea of the appellant also, the demand is not sustainable.

**9.** As per our above discussion, we are of the view that under the facts and circumstances, whether the product is classifiable under Chapter 4811 90 99 or under 4911 99 90 appellant is not liable to pay duty. Accordingly, the impugned order is set aside. Appeal is allowed.”

**11.** In the case of *HBD Packaging (P) Ltd.* (supra), similar issue was considered wherein it was held that the activity of printing and plastic / varnish coating of plain paperboard as per customer’s

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specification either purchased by assessee or received for job work does not amount to manufacture. It was held that the basic character of paper board has not changed. The Tribunal followed the decision of the Hon'ble Supreme Court in the case of *Union of India Vs J.G. Glass Industries Ltd.* – 1998 (97) ELT 5 (SC). Relevant para of the Tribunal decision reads as under :

“7. Coming to the question as to whether the process of printing as per customer's specification and plastic/varnish coating of the paperboard either purchased by the appellant from outside or received from their Baddi unit for job work, amounts to manufacture, for this purpose the department has to lead evidence showing that by this process, a commercially new product with distinct name, character or usage has emerged. However on this point, the Commissioner in para 5.17 of the impugned order-in-original has given the following finding :-

“5.17 The primary use of the goods manufactured by the party was to convert it into carton/such packing material and not more than that and the act of printing/coating was merely in relation to such use and not more than that. In my view, even without being subjected to printing and coating, the plain coated paper could be converted into carton/such packing material and be put to the use in the same manner, as a printed carton is used. In such circumstances, it can be said that the act of printing was merely incidental to the primary use and hence the resultant product obtained after the act of printing remained covered by Chapter 48”.

Thus even per the Commissioner's findings, even after the process of printing and plastic/varnish coating of paperboard, the basic character and use of the product has not changed and paperboard, whether plain or printed and coated is used for the same purpose, i.e. making of carton for packaging.

8. Hon'ble Supreme Court, in the case of *Union of India v. J.G. Glass Industries Ltd.* reported in [1998 \(97\) E.L.T. 5](#) (S.C.) while holding that printing of plain glass bottles does not amount to manufacture, has in para 16 of the judgment observed as under -

“16. On an analysis of the aforesaid rulings, a two fold test emerges for deciding whether the process is that of “manufacture”. First, whether by the said process a different commercial commodity comes into existence or whether the identity of the original commodity ceases to exist; secondly, whether the commodity which was already in existence will serve no purpose, but for the said process. In other words, whether the commodity already in existence will be of no commercial use but for the said process. In the present case, the plain bottles are themselves commercial commodities and can be sold and used as such. By the

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process of printing names or logos on the bottles, the basic character of the commodity does not change. They confirm to be bottles. It cannot be said that but for the process of printing, the bottles will serve no purposes or are of no commercial use.”

**8.1** We are of the view that the above judgment of the Apex Court is squarely applicable to the facts of this case as in this case, admittedly, plain paperboard and printed paperboard, both can be used for making cartons for packaging. Hon’ble Supreme Court in case of *Rollatainers Ltd. v. Union of India* reported in [1994 \(72\) E.L.T. 793](#) (S.C.), which has also been relied upon in its above-mentioned judgment in case of *Union of India v. J.G. Glass Industries Ltd.* (supra) has held that the plain carton even after printing remains a carton i.e. the product of packaging industry and they do not become the product of printing industry after printing.

**9.** In view of the above discussion, we hold that the process of printing and varnish/plastic coating of plain cartons received by the appellant does not amount to manufacture and as such no duty is chargeable on the same. The impugned order, therefore, is not sustainable. The same is set aside. The appeal is allowed.”

12. In the case of *Fitrite Packers Vs CCE Mumbai* (supra), the issue considered was whether the printing of duty paid GI paper amount to ‘manufacture’. The Tribunal followed the Hon’ble Supreme Court judgment of *UOI Vs J.G. Glass Industries Ltd.* (supra) as well as decision of ITC Ltd. which was upheld by the Hon’ble Supreme Court.

Relevant para reads as under :

“**14.** We have considered arguments from both sides as well as the case laws cited before us. As we have observed earlier, it is well-settled that mere change of tariff classification from one heading to another, in this case, from 48.05 to 48.11, would not make the product excisable unless the process meets the test of manufacture. We find that there are decisions of the Tribunal cited by the learned DR, which have held similar goods such as wrappers for soap, wrappers for biri and printed PVC sheets to be manufactured goods on account of printing. However, the decisions cited by the learned Advocate mainly the decision of the Hon’ble Supreme Court in the case of *J.G. Glass* (cited supra), and decision in the case of *Printorium* (cited supra), which has been upheld by the Hon’ble Supreme Court and decision in the case of *ITC Ltd.* reported in [2004 \(166\) E.L.T. 426](#) (Tri) upheld by the Hon’ble Supreme Court hold that printing of glass bottles, aluminium foils, paperboard

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respectively do not result in manufacture of new commodity. We have also kept in view arguments from both sides in the context of classification of the impugned product that the printing is incidental and primary use of GI printed paper roll is for wrapping, which is not changed by the process of printing. Hence following the ratio of the decision of the Hon'ble Supreme Court in the case of *J.G. Glass* (cited supra), we are of the view that if the impugned printed products are produced in the same factory, where paper is produced, it would be chargeable to duty under Heading 48.11, whereas in this case, the appellants have bought duty paid GI paper and merely carried out the process of printing, hence they are not required to pay duty on such printed GI papers produced from duty paid GI paper as the process of printing in this case does not amount to manufacture.

15. Accordingly, in view of our finding above, we set aside the impugned orders and allow the appeals.”

13. The issue has been discussed in detail in the Tribunal's decision in the case of *ITC Ltd.* (supra) which has been subsequently upheld by the Hon'ble Supreme Court. The Tribunal held that printing on packages does not amount to 'manufacture'. Relevant para reads as under :

“7. On a careful consideration of the submissions, we are required to see as to whether the printing carried out by the appellants on the coated paper board amounts to a process of manufacture? In this regard, we notice that the West Regional Bench in the case of *CCE v. Supreme Industries Ltd.* (supra) has held that process of printing on plain plastic film does not amount to a process of manufacture. They have followed the ratio of the judgment rendered in the case of [1986 \(23\) E.L.T. 217](#) and that of Apex Court's judgment rendered in *UOI v. J.G. Glass Industries Ltd.* (supra). The Apex Court in the case of *CCE v. Paper Products Ltd.*, [2000 \(115\) E.L.T. 277](#) (S.C.) has held that printing of name on the film which is then utilized for the purpose of packaging does not amount to a process of manufacture. In view of these two judgments, we have to clearly uphold the contention of the appellant that the process of printing on the coated paper does not amount to a process of manufacture and no new commodity arises. Even otherwise, the contention of the appellant that the Tribunal in the case of *Sri Kumar Agencies v. CCE, Bangalore* (supra) has held that the printed paper board would be rightly classifiable under Chapter Heading 4901.90 is required to be upheld. Hence, by applying the ratio rendered in *Sri Kumar Agencies'* case which has been followed in the case of *Paxwell Printers v. CCE, Bangalore* (supra) and in the case of *CCE v. Reliance Printers* (supra), we hold that the classification of the printed paper board in any event if it is held to be goods would fall under Chapter Heading 4901.90. The judgment cited by learned SDR in the case of *Headway Lithographic Co. v. CCE, Kolkata-I* (supra) pertains to wrapper for biri which is a different product and the classification therein is different.

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10. We also uphold the claim of appellant that in the event of printed coated paper board being considered as goods, they are entitled for the claim of Modvat. The Modvat claim is available in the facts and circumstances of the case. Further the plea that the demands are barred by time as all the facts had been furnished and classification list had been approved is required to be upheld in the matter. However, we have already given a finding that the process of printing on the coated paper board does not amount to manufacture, and if so, the alternative claim that it is required to be classified under 4901.90 is upheld.”

14. After appreciating the evidence placed before us and following the decisions cited supra, we are of the view that the activity of printing done by the appellant does not amount to ‘manufacture’. The demand of Excise duty, interest and the penalties imposed cannot sustain. The demand, interest and penalties are set aside. The impugned order is set aside. The appeals are allowed with consequential reliefs, if any.

(Dictated and pronounced in court)

sd/-

**(VASA SESHAGIRI RAO)**  
 Member (Technical)

sd/-

**(SULEKHA BEEVI. C.S)**  
 Member (Judicial)

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