

PETITIONER:
UNION OF INDIA AND ANR.

Vs.

RESPONDENT:
BABUBHAI NYLCHAND MEHTA

DATE OF JUDGMENT 18/12/1990

BENCH:
KASLIWAL, N.M. (J)
BENCH:
KASLIWAL, N.M. (J)
AGRAWAL, S.C. (J)

CITATION:
1991 AIR 407 1990 SCR Supl. (3) 559
1991 SCC Supl. (2) 348 JT 1990 (4) 790
1990 SCALE (2) 1269

ACT:
Central Excises & Salt Act, 1944: Section 2(f) and
Schedule Item 17(2)--Processed Kraft Paper-- Assessability
to duty.

HEADNOTE:

The respondent is the proprietor of a company which carried on business of manufacturing Waterproof Kraft Paper. The company purchased kraft paper as well as other material from the open market and combined these materials with kraft paper in its factory. The company claimed that as the manufacturing process was not carried out in bringing into existence various kinds of kraft papers, it was not liable to pay any excise duty in respect of the products produced in its factory.

The Assistant Collector of Central Excise held that the kraft paper marketed by the company was bituminised water proof packing papers which were different and distinct products than the original kraft paper and hence were liable to payment of excise duty.

The company filed a writ petition in the High Court. The learned Single Judge held that the process carried on by the company could not be considered as manufacture of a new commodity with a different name and different use. On appeal, the Division Bench affirmed the judgment of the learned Single Judge.

Before this Court it was contended on behalf of the Revenue that the case was covered by the recent decision of this Court in laminated Packings (P) Ltd. v. Collector of Central Excise, Guntur, [1990] Vol. 4 SCC 51 in which, in similar circumstances, it was held that by the process of lamination of Kraft paper with polyethylene, different goods came into being-

The learned counsel on behalf of the company tried to distinguish the Laminated Packings case. In the alternative, it was urged that no evidence was placed on record by the appellant to show that the goods in

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question were known in the market having distinct, separate and identifiable function.
Allowing the appeal, this Court,

HELD: (1) The coating and lamination and other process applied the company in its factory amounted to manufacture, because kraft paper did not remain an ordinary kraft paper, and as such it was liable to excise duty under Central Excise Tariff Item No. 17(2). [564G]

Laminated Packings (P) Ltd. v. Collector of Central Excise, Guntur, [1990] Vol. 4 SCC 51, followed.

Standard Packaging Nailore v. Union of India, [1984] ECR 2639, referred to.

(2) In the facts and circumstances of this case there could be no controversy that new goods came into being, and laminated papers were sold in the market as distinct, separate and different goods. [565B]

JUDGMENT: