

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**  
**NEW DELHI**

PRINCIPAL BENCH – COURT NO. – IV

**EXCISE APPEAL NO.50290 of 2021**

[Arising out of Order-in-Original No.19/2020-CX dated 15.10.2020 passed by the Additional Director General (Adjudication) DGGI, New Delhi].

**M/s. Real Mazon India Ltd.**

**...Appellant**

Village-Ogli, Trilokpur Road, Kala Amb,  
(Kanungo Circle-Nahan),  
District Sirmaur (H.P.)

*VERSUS*

**Additional Director General (Adjudication),**

**...Respondent**

DGGI, New Delhi.

**WITH**

**EXCISE APPEAL NO.50291 of 2021**

[Arising out of Order-in-Original No.19/2020-CX dated 15.10.2020 passed by the Additional Director General (Adjudication) DGGI, New Delhi].

**Shri Rajeev Maheshwari**

**...Appellant**

Director of M/s. Real Mazon India Limited  
Village-Ogli, Trilokpur Road, Kala Amb,  
(Kanungo Circle-Nahan),  
District Sirmaur (H.P.)

*VERSUS*

**Additional Director General (Adjudication),**

**...Respondent**

DGGI, New Delhi.

**APPEARANCE:**

Mr. A.K. Prasad and Ms.Surabhi Sinha, Advocates for the Appellant  
Mr.Rakesh Agarwal, Authorised Representative for the Respondent

**Coram:**

**HON'BLE DR.RACHNA GUPTA, MEMBER (JUDICIAL)**

**HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)**

**DATE OF HEARING : 24/07/2023**

**DATE OF DECISION: 03/11/2023**

**FINAL ORDER NO.51495-51496/2023**

**DR.RACHNA GUPTA**

The facts in brief relevant for the adjudication of present appeals are as follows:-

The appellant, Real Mazon India Ltd.<sup>1</sup>, (hereinafter called as RMIL) is a company engaged in the manufacture and sale of High Security Registration Plates<sup>2</sup> (hereinafter called as HSRP) and windshield stickers (3<sup>rd</sup> license plate) having its manufacturing unit at Trilokpur Road, Kala Amb, District Sirmour, Himachal Pradesh. The appellant entered into agreements with State Transport Commissioners for installation of HSRP Plates and windshield stickers on the vehicles sold in their States/Union Territories. For the purpose they had established offices with developed infrastructure in these States to implement the said agreement which was found to be executed with the transport Commissioners of State of Rajasthan, Union Territory of Chandigarh, State of Jammu and Kashmir and Union Territory of Andaman & Nicobar.

2. To implement the above agreements, the appellant manufactured aluminum plates (HSRP blank) and the multilayer labeled stickers with various security features at their unit located in the State of Himachal Pradesh. These manufactured products are cleared by the appellant from their Kala Amb, Himachal Pradesh factory, after availing the benefit of area based exemption as stipulated under Notification No.50/2003-CE dated 10.06.2003. The

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<sup>1</sup> RMIL

<sup>2</sup> HSRP

exemption under this Notification is available only if the processes undertaken within that state amount to manufacture and is not available if processes undertaken within the State do not amount to manufacture. Undisputedly, for manufacture to take place, a new, distinct marketable product must emerge. Department observed that these HSRP Blank Plates are getting processed further at various Embossing Station Office<sup>3</sup> (hereinafter referred as 'ESO') established by the appellants in other State's Regional Transport Authority<sup>4</sup> (RTA). The further processes include hot plating and embossing of registration number allotted by the RTA to the respective vehicle to complete the manufacture of HSRP with vehicle registration number. These HSRPs and windshield stickers embossed/ printed with respective registration number are thereafter sold and fitted on the vehicles by the appellants against the payment being received from the owners of the said vehicles.

3. The Department also observed that for execution of the work allotted under the agreements, in the State of Rajasthan, the appellants have established a consortium of Real Mazon Rajasthan Pvt. Ltd.<sup>5</sup> (hereinafter called as RMRPL) for feeding the security data in the Online Management Information System, so as to share the information regarding the vehicle registration details etc. between Regional Offices of Transport Commissioner<sup>6</sup>. The price for said activity was also charged from the owner of the vehicle. The activity of embossing of registration number on HSRP blank and printing multi

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<sup>3</sup> ESO

<sup>4</sup> RTA

<sup>5</sup> RMRPL

<sup>6</sup> RTO

layer labeled stickers and fixing them subsequently on the vehicles was being done in the Rajasthan States ESO. From these facts, the Department formed an opinion that the appellants are manufacturing HSRP Blank and multi layer labels stickers in their unit in Himachal Pradesh, however, are transferring the same to the ESOs installed by the appellants in the States / UTs under challan without payment of Central Excise Duty.

4. The Department alleged that a new and different marketable article is emerging at the said ESO having distinctive name, classification, character. The original product i.e. HSRP Blank is lost and a new separate article known as HSRP complete gets manufactured at the ESO of State of Rajasthan. The HSRP manufactured at Kala Amb, Himachal Pradesh is neither marketable nor saleable having no commercial value. Hence, it is alleged that manufacturing activity has been bifurcated by the appellant to evade the Central Excise Duty and to wrongly avail the benefit of area based exemption Notification No.50 of 2003. With these allegations Show Cause Notice No.214/2017/4440 dated 08.02.2019 was served upon the appellant proposing the demand of Central Excise duties amounting to Rs.6,30,94,677/- on the clearances of HSRP, windshield stickers and scrap made by the appellants during the period from January 2014 to June, 2017 alongwith the proportionate interest and the appropriate penalties. This proposal has been confirmed vide Order in Original No.19/2020 dated 05.10.2020 except that the demand of Central Excise Duty of Rs.27,856/- on scrap cleared during

March, 2014 was dropped. Being aggrieved the appellant is before this Tribunal.

5. We have heard Mr. A.K. Prasad and Ms.Surabhi Sinha, Id. Counsels for the appellant and Mr. Rakesh Agarwal, Authorised Representative for the respondent.

6. Ld. Counsel for the appellant has mentioned that they have rightly availed the Area Based Central Excise Duty Exemption under Notification No.50/03 dated 10/06/2003 as the manufacture of their product i.e. HSRP and windshield stickers gets completed at their unit in Kala Amb, Himachal Pradesh itself to which is available the area based exemption of the said notification. To impress upon the correctness of the said submission, Id. Counsel has briefed about the manufacturing process of HSRPs which starts with loading of aluminium sheeting in coils of respective sizes. After clearing the surface and making it free of dust and dirt the coil is fed into a straightening station where aluminium is straightened between different rubber rollers to remove minor dents and bends. The coil is then transferred to the laminating station where aluminium and retro-reflecting sheetings are stretch- laminated under pressure using very high degree of automation and censor monitoring process controls so as to obtain strong bonding. This laminated aluminium coil is then transferred to a hydraulic press where punching and rim embossing takes place with the use of cutting dyes and tools for different plate designs and sizes. These blank plates are then sent to the hologram hot stamping station to hot stamp a 20x20 chromium based hologram. Thereafter the plates are sent to the laser engraving

station where every plate has a unique laser code number engraved on it.

7. The HSRP blanks manufactured in the above referred process at the Kala Amb unit are mentioned to have the following mandatory security features as per Rule 50 of the Central Motor Vehicle Rules (CMVR), 1989.

(a) "IND" inscript embedded or hot-stamped in retro reflective sheeting on every HSRP plate.

(b) 20x20 chromium hologram hot-stamped at pre-defined place of each and every HSRP.

(c) Unique Laser code number by using Laser engraving process on retro reflective sheeting on each and every HSRP.

8. It is submitted that at this stage the High Security Registration Plates (HSRP) are fully manufactured except that at this point the Appellants are not aware of the registration number of the vehicle which has to be allotted by the State RTO to the vehicle owner only. Post allotment said number gets affixed at the ESO set up by the Appellants at the various Regional Transport Offices (RTO's).

9. Ld. Counsel emphasized that ESO in Rajasthan got set up by the appellants themselves (they being the highest bidder for the purpose. It is clarified that the appellants are not permitted to sell the HSRP Blanks in the open market due to the statutory requirement of Ministry of Road Transport and Highways given in SO No.2091 (E) dated 16.09.2011. The said restriction is purely for security

consideration. Hence, it cannot be said that HSRP Blanks are not marketable. These plates are to be sold to the vehicle owners only who approaches the said RTO for the allotment of the registration number which then gets embossed on the HSRP blank at the ESO established by the appellant in the premises of RTO and thereafter the HSRP is taken for being fitted in the motor vehicle in case of four Wheeled vehicles the third license plate (TLP)/ the windshield sticker in the form of multi layer labeled sticker gets affixed on the top inside left hand corner of the windshield of the said vehicle.

10. Ld. Counsel also clarified that appellants thereafter raise the invoices on the motor vehicle owner, for:

- (i) Sale of HSRP's (complete set of registration plate inclusive of snap locks and Third Licence Plate). On this value VAT was paid, but no central excise duty, since the goods were manufactured in a factory which was availing area-based exemption.
- (ii) Affixation and fitment of HSRPS (numbering and fixing charges for complete set of registration plates and snap locks and Third Licence Plate (wherever applicable) inclusive of the service charges for embossing and hot stamping process at the appellant's ESO's in Rajasthan. On these charges service tax was collected on the bills.

RMRPL raises invoice for data entry of the details in the RTO server. On this they charge Service Tax. The appellant as well as RMRPL are discharging their service tax liability towards the amount so collected.

11. It is further mentioned that the appellant despite claiming the Area Based Exemption is ending up paying more amounts to the Department in the form of Service Tax @15% and also the VAT compared to 12.5% of the Excise Duty. It has also been brought to the notice that one of the conditions of the Notification was to inform the concerned officer in writing about all requisite particulars as mentioned in the Notification and the intimation about exercising the option of seeking exemption, in writing. This condition was duly complied with vide the letter dated 22.07.2009. No objection was ever been raised by the concerned department. The restriction on sale of HSRP directly from Kala Amb was purely because of amendment in rule 50 of Central Motor Vehicle Rules, 1989 by the Ministry of Road Transport and Highways Notification No.1749 dated 16.09.2011 according to which the approved manufacturer or supplier shall not be authorized to sell plates without registration numbers with security features. Because of this statutory mandate that the manufactured HSRP Plates are being cleared as a stock transfer to the ESO in the concerned State/ Union Territory. Also the ESO need not be the appellant only. It could be any other successful bidder of the tender issued by the State Transport Authority.

12. Ld. Counsel submitted that from all these facts, it is clear that the manufacture of HSRP gets completed at Kala Amb, Himachal Pradesh which entitles the appellant to avail the Area Based Exemption. It is also clear that embossing at ESO in State Transport Authority was merely a service as no new product emerges after the said activity. The department has wrongly held it to be the part of

manufacturing activity which got done in Rajasthan. The benefit of exemption Notification has therefore wrongly been denied. Finally, it is submitted that there is no intention of evasion of duty. As already mentioned above, the appellant have been paying more revenue in the form of VAT and Service Tax, hence, the extended period should not have been invoked. Bulk of the demand is liable to be set aside being time barred. With these submissions, Id. Counsel has prayed for the order under challenge to be set aside and the appeals to be allowed.

13. Ld. Counsel has relied upon the following case laws:-

- i) Servo-Med Industries Pvt. Ltd. vs. CCE, Mumbai reported in 2015 (ELT) 578 (SC).
- ii) CCE, Mumbai-IV vs. Fitrite Packers reported in 2015 (324) ELT 625 (SC).
- iii) Union of India vs. Delhi Cloth and General Milla Co. Ltd. reported in 1977 (1) ELT (J199) (SC)
- iv) Union of India vs. J.G. Glass Industries Ltd. reported in 1998 (97) ELT 5 (SC)
- v) Metlex (I) Pvt. Ltd. Vs. Commissioner of Central Excise, New Delhi reported in 2004 (165) ELT 129 (S.C.)
- vi) Commissioner of Central Excise, Mumbai vs. Godfrey P)ilip (I) Ltd. reported in 2003 (156) ELT 1026 (Tri.-Mum.)

14. While rebutting these submissions, Id. Departmental Representative has impressed upon that admittedly the product manufactured at Kala Amb, Himachal Pradesh is HSRP Blank, but the product sold is the complete HSRP as different from HSRP blank. The

Blank HSRP is hot plated and embossed with the registration number in Rajasthan without which HSRP Blank cannot be sold. The windshield sticker / TLP also get Complete and ready for sale not at Kala Amb but at the respective State/ UT, (in the present case the state of Rajasthan). Since these are the two different products pre and post embossing and it is only post embossing product which is saleable, and the manufacturing process is complete. Since the manufacture completes the manufactured product gets cleared in the state of Rajasthan, the Himachal Pradesh unit of appellant cannot avail the area based exemption available to units in Himachal Pradesh. Ld. Departmental Representative has read out various clauses of the agreement in support and to impress upon that appellants have been appointed by Rajasthan State Road Transport Authority, being the successful Bidder, inter alia to assemble, establish, procure technology, design, develop, produce, emboss, affect, distribute and create complete infrastructure for the implementation of HSRP Scheme in the State of Rajasthan. Seen from this angle also any exemption available to the units existing in Himachal Pradesh cannot be availed by the appellant.

15. Ld. Departmental Representative has further drawn our attention to one of the invoices showing that appellants were clearing HSRP with the accessories from Himachal Pradesh to themselves in Jaipur. Since the product cleared from Himachal Pradesh was not actually saleable at that point of clearance, the benefit of the impugned Notification was not available at that point. It is the embossing on these plates in the State of Rajasthan which makes

these plates a marketable commodity. Hence the place of embossing that is the ESO of the State Transport Authority shall be the place of manufacture and removal for these HSRPs. Since in the present case, the place of removal is the ESO in Rajasthan, the duty liability of the appellant there arises in the State of Rajasthan where the impugned Notification does not apply. Resultantly, the appellant was not entitled to exemption from excise duty. Thus, it has rightly been demanded on the HSRP cleared by him, more so, for the reason that the said ESOs were also owned by the appellant. Ld. Departmental Representative further argued that present is not the case of Revenue negativity as has been impressed upon by the Id. Counsel for the appellant. Ld. Departmental Representative has relied upon the following case laws:-

1. Brakes India Ltd. Vs. Superintendent of Central Excise reported in 1998 (101) E.L.T. 241 (S.C.).
  2. Union of India vs. J.G. Glass Industries Ltd. reported in 1998 (97) ELT 5 (S.C.)
  3. Commissioner of Central Excise, Mumbai-IV vs. Fitrite Packers reported in 2015 (324) E.L.T. 625 (S.C.).
16. With respect to the invocation of extended period of limitation while issuing the Show Cause Notices Id. Departmental Representative reiterated the findings in para 36.1 of the Order - under- challenge wherein it has been discussed that suppression has been committed by the appellant. Arguing that there is no infirmity in

the order under challenge, Id. Departmental Representative has prayed for the dismissal of the appeals.

17. Having heard the rival contentions, perusing the record and written submissions filed by the parties, we are of the considered view as follows:-

To decide these appeals we need to adjudicate the following three issues:-

1. What is the product in question, when it is cleared from Himachal Pradesh and whether it gets changed when it is sold to the vehicle owner in Rajasthan?
2. What is the meaning of manufacture to understand (as to whether the activity done at ESO in State of Rajasthan can be called as the part of manufacturing process which is otherwise done in State of Himachal Pradesh).
3. Can the demand of excise duty be sustained?

**Issue No.1**

18. The product in question is the High Security Registration Plate (HSRP). It is an aluminium made Number Plate to be fixed on the motor vehicles. It has various identifiable features like:

- (i) on the top left corner of HSRP there is a blue coloured chromium based hologram of the size 20 MM x 20 MM of Ashokachakra on the bottom left corner.

- (ii) A Unique laser-branded 10 digit Permanent Identification No.(PIN).
- (iii) A blue "IND" Acronym appears in between the said Ashokachakra An Alfa Numerical PIN.

19. The HSRP made out of aluminium foil with the above said 3 unique security features is manufactured by the appellant at Kala Amb. The process involved for Manufacturing the same starts with loading of Aluminium Sheets in coils of respective sizes. After cleaning the surface and making it free of dust and dirt, the coil is fed into the straightening station where Aluminium is straightened between different Rubber Rollers to remove minor dents and bends. Thereafter, the coil is transferred to the laminating station where Aluminium and Retro Reflective Sheeting are stretch laminated under pressure using very high degree of Automation and Sensor Monitoring Process Controls so as to obtain strong bonding. This laminated Aluminium coil is transferred to Hydraulic Press where punching and Rim Embossing takes place with the use of cutting dies and tools for different plate designs and sizes. These blank plates are then sent to the Hologram Hot Stamping Station to Hot Stamp the 20 x 20 Chromium based Hologram, after which the Blanks are sent to the Laser Engraving Station where every plate has unique Laser Code Number engraved.

20. We observe it to be an undisputed fact that the aforesaid process of manufacturing HSRP (Blanks) is undertaken as per the Rules and regulations referred to in Rule 50 of Central Motor Vehicle

Registration Rules, 1989 (CMVR 1989). These rules were first amended on 22nd August, 2001 mandating certain standards in respect of high security registration plates for motor vehicles to be maintained as far as the processes used by the manufacturer or vender for manufacturing or supplying such plates are concerned. Subsequently, the compliance of these rules was mandated vide Government order dated 01.07.2019. As per these rules, it is mandatory for all vehicles including two wheelers which are sold after April 2019 to get the HSRP fixed. The amended rule 50 of CMVR also provides that these plates should be manufactured and affixed through the authorized dealers only, who are authorized by the motor vehicle department. Pursuant to said statutory mandate that the transport department of Govt. of Rajasthan invited bids for supply and affixation of HSRP on the vehicles registered in the State of Rajasthan.

21. To participate in the bid the appellant formed a consortium by setting up a Special Purpose Vehicle (SPV), which was duly registered under the Companies Act, 1956, under the name, Real Mazon (Rajasthan) Private Limited (RMRPL). The appellants were the lead member of the consortium (holding 68% equity shares). This consortium won the bid and entered into a contract with the Commissioner of Transport, Government of Rajasthan, for 'Supply and Affixing of High Security Registration Plates on Motor Vehicles in the State of Rajasthan. The contract also provided for data entry about the details of the vehicle. The registration number allotted

corresponding to alpha numeric number of the HSRP and HSRP in the servers of the respective RTO's.

22. The appellant was transferring the 'HSRP Blank' from Kala Amb in Himachal Pradesh as stock transfer to the various embossing stations set up by the appellant itself at various RTOs in State of Rajasthan. We observe that this clearance is absolutely as per the statutory requirement of Ministry of Road Transport and Highways SO No.2091 (E) dated 16.9 2011 purely for the security reasons. Due to this mandate the appellants are not permitted to sell the HSRP (blanks) in the open market directly from the place of manufacture. These plates are sold to the vehicle owners to whom the vehicle registration number has to be issued/ allotted by the concerned RTO. Such vehicle owner then approaches the appellant at its ESO where the data entry and due authentication and authorization from RTO is done by said special purpose vehicle. The 'HSRP (Blanks)' are then embossed with the said allotted registration number. Thereafter these blanks are fed into a pot stamping machine where a bank foil with India "in script" is hot stamped at 45 degrees angle on the embossed Alphanumerical characters. The HSRP, now becomes 'HSRP Complete' for fitment on the respective motor vehicles. At this stage it is sold to the owner of the said vehicle.

23. From the above discussion it is clear that the product is the high security registration plate, but blank, when it gets cleared from the factory in Kala Amb, Himachal Pradesh. It is blank for the reason that at that time the appellant is not aware about the registration number

of the vehicle which has to be affixed on a particular plate. This registration number gets issued to the vehicle owner by the RTO in State of Rajasthan. While data entry at ESO in Rajasthan this registration number is entered against the specific alpha numeric PIN embossed on the HSRP blank at the manufacturing unit in Kala Amb, Himachal Pradesh. Finally, the said registration number gets embossed on said HSRP in the ESO of appellant established in Rajasthan. Hence what is cleared from Rajasthan is high security registration plate only except with the specific number embossed on it. So is true for the windshield stickers which also have the security features at the time when these are cleared from Himachal Pradesh (Kala Amb). It is that the Registration number allotted in the State of Rajasthan to a particular vehicle which gets embossed on these stickers. Hence, like HSRP, these stickers are wind shield stickers but blank, when these are cleared from the factory in Himachal Pradesh and these are windshield stickers only, but embossed with specific vehicle Registration number, statutorily allotted, when it gets cleared from ESO in Rajasthan. Thus, question No.1, above is answered as :

<b>Sl. No.</b>	<b>Product</b>	<b>Product cleared from Himachal Pradesh</b>	<b>Product cleared from ESO in Rajasthan</b>
1	HSRP	HSRP blank	HSRP embossed with vehicle Registration
2.	Windshield stickers	Windshield sticker blank	Wind shield sticker with vehicle Registration number printed on it.

It is clear that since HSRP is cleared from Himachal Pradesh till it is sold to the vehicle owner in Rajasthan, the identity, usage, character all remain same. It is still a High Security Registration plate. So is true for wind shield sticker. The change that occurs in State of Rajasthan is statutorily prohibited to be brought in the HSRP when it

is still in Himachal Pradesh. The first question as framed above is therefore answered as:

“the product remains same”.

24. We also observe from the record that SPV (RMRPL) is duly registered with the Service Tax Department and they are discharging their liability considering embossing to be a service. In addition, they are discharging their VAT liability while selling the individual HSRP to a particular vehicle owner.

### **Issue No.2**

#### **Meaning of Manufacture:**

25. Central Excise Act, 1944 Section 2 (f) does not specifically define manufacture, however, it categorizes few processes to be included in the term “manufacture”. Section 2 (29BA) of Income Tax Act 1961 defines manufacture to mean a change in a non-living physical object / article resulting in transformation into new and distinct object having a different name, character and use. As per dictionary meaning of manufacture, it is the process of building or assembling something specially in a factory. However, Legal Jurisprudence defines manufacture to mean the production preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly by extraction from substance of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis.

26. The product in question as discussed under issue No.1 when is glanced through the prism of above definitions, we observe that while transferring from HSRP (Blank) (as cleared from Kala Amb, Himachal Pradesh) to HSRP complete (as sold to the individual vehicle owner in State of Rajasthan) there is no change either in chemical composition of the plate nor in the physical appearance of the plate. There is no transformation of HSRP manufactured in Himachal Pradesh into a new and distinct object having a different name, character and use when it gets sold in State of Rajasthan. From the process of manufacturing HSRP plates from aluminium sheets as discussed above, it is clear that transformation of aluminium sheets into a new product called high security Registration plate occurs in the factory at Kala Amb, Himachal Pradesh. At both the points of clearance viz in Himachal Pradesh & in Rajasthan, the product in question is high security registration plate meant to be affixed on the motor vehicles, except that a specific registration number as allotted by the Rajasthan RTO, under the mandate of the Motor Vehicle Act/ Rules gets embossed/printed on blank HSRP/windshield stickers. However, the use, nomenclature etc. remains the same.

27. Security registration plates for vehicles are meant to curb the offenses involving motor vehicles. Accordingly, under statutory mandate, these plates are to be manufactured by the manufacturers who have been authorized by the Regional Transport Officers.

28. We observe that the marketability chain is pre-decided as is apparent from the agreement executed between the Commissioner of Transport, Transport Department for and on behalf of Governor of

Rajasthan and the appellant, who is executing the said agreement after forming a consortium with the state of Rajasthan itself i.e. duly registered SPV (RMRPL). Vide the said agreement, the state of Rajasthan had selected the appellant to assemble, establish, procure technology, design, develop and produce the HSRP plate and also to emboss, affix, distribute and create complete infrastructure for the implementation of HSRP Scheme in the State of Rajasthan. There is no denial to the fact that for the activity of embossing at ESO in Rajasthan it can be done by anyone who is the successful bidder. Thus, it is not necessary that one who manufactured HSRP blank shall only be embossing the allotted registration number on these HSRP blanks.

29. Once there is no change in the use, composition or the character of product in question nor any such process that may bring change in physical properties and chemical composition any subsequent activity exercised on these plates cannot amount to manufacture. Hence we hold that manufacture of HSRP got completed at the time when it was cleared from Kala Amb, Himachal Pradesh. The plea that HSRP is not sold at the time when it got cleared from Kala Amb is also held insufficient to hold that the product manufactured and cleared at Kala Amb had no marketability.

30. The above observed clause of the agreement when read in the light of discussion about meaning of manufacture it is clear from previous para that these findings are sufficient to falsify the findings of the adjudicating authority that the manufacture of HSRP gets complete at ESO in the state of Rajasthan. In the light of above

discussion we hold that manufacture of HSRP was complete at Kala Amb, Himachal Pradesh only.

31. We further observe that the activities done by appellant at ESO first is the data entry correlating the PIN of HSRP (Blank) to the allotted registration number and then to emboss the said specific number on the said blank plate before selling it to the individual owner. These activities done in Rajasthan don't give a different identity to the product which appellant cleared from factory in Himachal Pradesh. We draw our support from the decision in the case of **Deputy Commissioner of Sales Tax (Law) Board of Revenue (Taxes), Ernakulam v. M/s. Pio Food Packers - 1980 (6) E.L.T. 343 (S.C.) = 1980 Supp. Supreme Court Cases 174**

this Court observed :-

*" ..... There are several criteria for determining whether a commodity is consumed in the manufacture of another. The generally prevalent test is whether the article produced is regarded in the trade, by those who deal in it, as distinct in identity from the commodity involved in its manufacture. Commonly manufacture is the end result of one more process through which the original commodity is made to pass. The nature and extent of process may vary from one case to another, and indeed there may be several stages of processing and perhaps a different kind of processing at each stage. With each process suffered, the original commodity experiences a change. But it is only when the change, or a series of changes, take the commodity to the point where commercially it can no longer be regarded as the original commodity but instead is recognized as a new and distinct article that a manufacture can be said to take place. Where there is no essential difference in identity between the original commodity and the processed article it is not possible to say that one commodity has been consumed in the manufacture of another. Although it has undergone a degree of processing, it must be regarded as still retaining its original identity".*

32. In the given set of circumstances, specifically statutory mandate as discussed above, the processes of embossing done at ESO is held nothing but a service as good as that of printing.

33. We also rely upon the decision of Hon'ble Apex Court in the case of **Union of India vs. JG Glass Industries Ltd. reported in 1998 (97) ELT 5** wherein it has been observed as follows:-

*"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 process of printing names or logos on the bottles, the basic character of the commodity does not change. They continue 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."*

34. Applying the said test to the facts of the present cases, we observe that the product manufactured by the appellant is high security registration plate prior as well as post embossing / printing of the registration No. of the vehicle on it. Since no change in the commodity/product happens post performing the activity of embossing, this activity done at ESO in Rajasthan cannot be called as the part of manufacture. Otherwise also the burden of proving the fact of manufacture lies on the Revenue if it claims the same. The adjudicating authority while denying the area based exemption to the appellant though has relied upon several case laws but we observe that none is squarely covering the fact of the present case about statutory restriction to sell the product herein to anyone else except

the Government Transport Department. Hence, the entire case laws as relied upon, by the department is held not applicable to the facts of the present case.

35. The above said discussion is equally applicable to the excisability of third license plate (TLP) / windshield stickers. These plates are manufactured as multi layer label stickers with self destructive type diffraction film which bears 10mm x 10mm chromium based hologram. The registration No. on this TLP also gets printed at the ESO in the state. We hold that in the light of discussion above, manufacture of TLP also gets complete at Kala Amb, Himachal Pradesh. Printing on these stickers at ESO in Rajasthan was merely a service being provided by the appellant to the vehicle owner for which appellant is charging service tax and is duly discharging its liability. As already observed above, the said service could be provided by anyone other than the manufacturer subject to being the successful bidder.

36. Coming to the third issue which we had identified above, we find that the demand of excise duty on the appellant is not sustainable for a more fundamental reason. The case of the appellant is that it is manufacturing the goods in Himachal Pradesh and hence it is entitled to the benefit of exemption notification No.50/2003-CE. The case of the Revenue is that the appellant is not manufacturing in the factory because the processes it undertakes do not amount to manufacture. If indeed, the processes do not amount to manufacture, as the Revenue asserts, then the appellant's activities do not fall within the charging section – section 3 of the Central

Excise Act, 1944 and no excise duty can be charged and the exemption notification is itself irrelevant. The appellant will not have to take registration, file returns or be governed by any of the provisions of the Central Excise Act.

37. The case of the Revenue is that manufacture is taking place at various ESOs in Rajasthan. Unlike some other laws, Central Excise required every manufacturing unit to be registered, maintain records and file returns: Duty is payable on removal of goods from each manufacturing facility. For instance, if a company has its head office in, say Mumbai, where activities which do not amount to manufacture only take place and it has factories manufacturing excisable goods, in Chennai, Indore and Surat, the office in Mumbai need not register, pay duty or file returns but the Chennai, Indore and Surat factories need to do so and each of these is treated as a separate assessee. Duty amount be demanded from Mumbai Office for manufacture in Chennai or Surat. Therefore, the entire show cause notice issued to the appellant's Himachal Pradesh falls flat if the Revenue's argument that it is not manufacturing is accepted.

38. Finally coming to the plea of invoking the extended period of limitation, we observe that the demand for the period from January, 2014 to June, 2017 has been proposed vide the Show Cause Notice dated 08.02.2019, we observe that the adjudicating authority has held that the appellant have neither declared the full manufacturing process of their product nor ever specified details of the activity being carried out by them. Department had no opportunity to detect the non-payment of Central Excise duty from their monthly Service Tax

Returns. No ER 1 Return reflecting the sale of HSRP plates has been filed is held as suppression of facts and reasons to invoke the extended period of limitation. However, we do not agree with those findings. We observe that the liability of paying excise duty arises at the time when manufacturer clears the product manufactured by him which is known to the market and has a saleability. In the present case the product manufacturer is known to market as HSRP and it has saleability except that under the statutory mandate the HSRP manufacturer has not to be sold by the manufacturer but by the person who succeeds the bid of State Transport Authority (RTA) to emboss the vehicle registration number allotted by the said RTA on the said HSRP. It is apparent on record that vide letter dated 22.07.2009 all these facts were conveyed to the department. Giving such information was a pre-requisite of the impugned notification.

39. The appellant in the present case was claiming area based exemption in terms of Notification No.50/2003 dated 10.06.2003 on the ground of manufacturing HSRP in Kala Amb, Himachal Pradesh. In the above discussion, we have held him entitled to claim the said exemption as his manufacturing activity is held to have concluded in Himachal Pradesh only. Thus, in our opinion there is no suppression of facts. Appellant had already intimated the concerned Commissionerate about his option to exercise the said area based exemption with all requisite particular in the said application dated 22.07.2009. In the state of Rajasthan the appellant is discharging the service tax liability qua his activity of embossing registration No. on the HSRP manufactured in Himachal Pradesh. VAT liability is also

being discharged by the appellant. Thus we hold that the Department has wrongly invoked the extended period. The confirmation of demand is liable to be set aside on this score also.

40. In view of the entire above discussion, there appears no evasion of tax liability and that the product of appellant gets manufactured in Himachal Pradesh to which area based exemption is available. Above all the Commissionerate in Himachal Pradesh has no jurisdiction to confirm any duty liability in case the manufacturing of HSRP would have completed in State of Rajasthan. Hence the order by Himachal Pradesh Commissionerate confirming the demand of excise duty is hereby set aside. Consequent thereto, the appeals stand allowed.

[Pronounced in the open Court on 03/11/2023]

**(DR. RACHNA GUPTA)**  
**MEMBER (JUDICIAL)**

**(P.V. SUBBA RAO)**  
**MEMBER (TECHNICAL)**