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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-19-1996

Reported in : (1997)(90)ELT304TriDel

Appellant : Cimmco Ltd.

Respondent : Collector of Customs

Judgement :
1. This appeal is directed against the Order-in-Appeal No. 879/89-BCH, dated 19-5-1989 passed by Collector (Appeals), Bombay.

2. The short question that falls for determination in this appeal is whether Flow Meter accessories are eligible for exemption under Notification No. 155/86-Cus. The Appellants have contended that flow meters are parts of coal dust flow i.e. Mass Measuring System of Cement Plant and therefore would merit assessment under Chapter 84.74 and therefore would be eligible to exemption under Notification No. 155/86 as this tariff item is mentioned in the notification. The department, however, has held that this meter as classifiable under Heading 90.31 and rejected their claim since the Notification No. 155/86-Cus.

includes only certain items falling under Chapter 84 and 85.

3. Arguing for the appellants the ld. Counsel reiterates the claim made in the appeal but on a specific question from the Bench fairly concedes the department's point of view.

5. We do not see much merit in the appeal. Flow meters obviously fall under only Chapter No. 90 and in fact we find that Hon'ble Apex Court in the case of Moorco (India) Ltd. v. C.C., Madras - 1994 (74) E.L.T. 5 (S.C.) has also upheld their classification only in this chapter. Since the table appended to Notification No. 155/86 does not include Chapter 90 for the purpose of concession this notification is obviously not applicable to the appellants. In the result we reject the appeal and uphold the impugned order.