

Commissioner of C. Ex. Vs. Platinum Lab-ware Pvt. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-07-1997

Reported in : (2003)(162)ELT1044TriDel

Judge : G B Deva, J T J.H.

Appellant : Commissioner of C. Ex.

Respondent : Platinum Lab-ware Pvt. Ltd.

Judgement :

2. The point to be considered in this case is whether the respondents are entitled to the concession of Notification No. 131/81, dated 22-6-81 as amended. The Assistant Collector has rejected the refund claim of the party on the ground that in some cases, the articles of Platinum were re-done and Customers had not supplied any old and used articles of platinum for making or re-conditioning. According to the Assistant Collector, the articles which are made to order out of assessee's materials are not entitled for exemption. In the appeal filed by the Assesseees, the Collector (Appeals) observed that interpretation by the Assistant Collector is not sustainable in law as Notification No. 131/81, dated 22-6-81 (as amended) does not postulate any such conditions. The only condition of the Notification is that articles of any of the precious metals falling under Chapter 71 are remade from old and used articles made from such metal or are re-conditioned, re-fabricated or subject to any other similar process.

We find that the Assistant Collector has admitted that articles have been re-conditioned or re-made. In the facts and circumstances and in the absence of such condition in the notification, we do not find any infirmity in the conclusion arrived at by the Collector (Appeals) on this issue. In the view, we have taken, the appeal filed by the Department is hereby dismissed.

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