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Bajaj Auto Ltd. Vs. C.C.E.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-09-1997

Reported in : (1997)(94)ELT545TriDel

Appellant : Bajaj Auto Ltd.

Respondent : C.C.E.

Judgement :

1. In this appeal filed by M/s. Bajaj Auto Ltd., the matter relates to the eligibility of the Air Conditioner procured by the appellants for their factory Telephone Exchange under Notification No. 56/78-C.E., dated 1-3-1978. The concessional rate of duty under Notification No.57/78-C.E. was available, among others, to the Air Conditioners for Telephone Exchange. The Collector (Appeals) had held that the concession under that Notification No. 56/78-C.E. was not available to private Telephone Exchange establishments.

2. The matter was posted for hearing on 9-7-1997. The appellants have prayed for decision on merits.

3. We have heard Shri A.K. Agarwal, SDR, who is present for the respondent/Revenue. We find that under Notification No. 56/78-C.E. the concessional rate of duty in favour of Air Conditioners had been provided when used, among others, in Telephone Exchange. In common parlance, Telephone Exchange is from where different independent lines to independent customers are exchanged. In the present case, the Air Conditioners were used in the factory for

internal communication and for the exclusive purposes of the appellants. In common parlance, such a facility is not known as Telephone Exchange. It is well-settled proposition of law that when the expression is not defined in the statute then the test of common parlance had to be applied. We consider that the internal arrangement for the appellants' factory could not be considered as a Telephone Exchange for the purposes of Notification No.56/78-C.E., dated 1-3-1978.

4. The appellants have not produced any evidence to show that as per common understanding the expression "Telephone Exchange" will cover their factory facility for internal and external communication.

5. Taking all the relevant considerations into account, we find no ground to interfere in the findings already taken by the ld. Collector of Central Excise (Appeals). As a result, there is no merit in this appeal and the same is rejected. Ordered accordingly.

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