Collector of Central Excise Vs. Redema

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-03-1997

Reported in : (1998)(97)ELT454TriDel

Appellant : Collector of Central Excise

Respondent : Redema

Judgement :

1. This is a Revenue appeal against the order of the Collector (Appeals), Madras dated 25-7-1989. By this order, he has accepted the appeal of the assessee and directed that the refund claim lodged on 29-1-1988 for a sum of Rs. 8,418/- be granted to them. The assessee had cleared 340 track pins on payment of duty under GP Nos. 87/17-9-1987 and 91/29-10-1987 although they were exempted under Notification No.164/87, dated 10-6-1987. The lower authority had rejected the refund claim for non-observance of the procedure prescribed under Chapter X.The learned Collector (Appeals) examined the citation relied before him and held that the assessee had produced the CT 2 certificate from the actual user namely, CVRD, factory, Ministry of Defence, Avadi, Madras.

He has also noticed that there is no dispute about the track pins manufactured by the assessee being eligible for exemption if used as original equipment parts and if the procedure prescribed under Chapter X is followed. He has noted that the goods have been utilised by the actual users in terms of their earlier letter dated 6-9-1988. The actual users are also in possession of L-6 licence duly granted by the C.E. authorities. It was noted that the assessees have obtained CT 2 certificate for receipt of the track pins. He has also held that there was only procedural lapse on account of which the substantive benefit cannot be denied to them. In this regard, the Collector (Appeals) has also referred to Tribunal's judgment.

4. Admittedly, in this case, the goods have been utilised in the manufacture of final product by CVRD factory, Ministry of Defence. The actual user was also holding L-6 licence and the assessee has also produced CT 2 certificate. The learned Collector has observed that there was only a procedural lapse for such procedural lapse, substantive benefit cannot be denied. In this regard, several judgments have been noted as in the case of National Mechanical Works v.Collector of Central Excise, as reported in 1983 (14) E.L.T. 2370. We agree with the finding given by the Collector (Appeals) that the lapses are only procedural and on that account substantial benefit cannot be denied, as has been laid down in several judgments of the Tribunal and the Higher Courts. In that view of the matter, there is no merit in this case, hence the appeal is rejected. The refund claim shall be determined in terms of Hon'ble Supreme Courts' judgment rendered in the case of Mafatlal Industries.