Trisure India Ltd. Vs. Cce

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SooperKanoon Citation : sooperkanoon.com/12684

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jan-21-1998

Reported in : (1998)(75)LC299Tri(Mum.)bai

Judge : U Bhat, S T K.

Appellant : Trisure India Ltd.

Respondent : Cce

Judgement :

1. Order dated 31.12.1990 passed by the Additional Collector of Central Excise, Bombay is under challenge in this appeal.

2. Appellant manufactures flanges, nozzles and plugs, receives tops of drums from suppliers, fits the manufactured articles on the top and returns the tops to the suppliers. Appellant was availing benefit of Notification No. 120/75, was issuing invoices showing the prices of flanges, nozzles and plugs and job charges received for fitting them on the tops of drums and paying duty on such invoice price. In respect of the period from September, 1983 to 28.2.1986 show cause notice dated 7.10.1988 was issued stating that the information about fitting the manufactured products on the tops of drums was suppressed from the knowledge of the Department and duty was payable on the value of tops also. Though the appellant resisted the notice on merits and on limitation, the Additional Collector confirmed the demand and imposed penalty. Hence, the present appeal.

3. Since the appellant was availing benefit of Notification No. 120/75, the value of materials received free of cost from the customers cannot be regarded as dutiable. This is the view taken by the Supreme Court in Texmaco Ltd., . Following the above decision, we set aside the impugned order and allow the appeal.